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LOUISIANA.*

"Si je réglais mes conditions sur ce que ces vastes territoires vaudront aux Etats-Unis, les indemnités n'auraient point de bornes," said NAPOLEON, when pressed by the times and by the exigencies of his treasury he called BARBÉ MARBOIS to his side, and instructed him immediately to open negotiations with Mr. LIVINGSTON for the sale of Louisiana to the Americans; "I want fifty millions," the First Consul continued, "and for less than that sum I will not treat: I would rather make a desperate attempt to keep these fine countries."

We have opened with this extract from MARBOIS' history of the negotiation, which Mr. GAYARRÉ has felicitously adopted as the motto of his work on Louisiana. BONAPARTE, with that decision of character which made him superior to every emergency, and with that political foresight which was only second to his great military genius, seized upon the first breathing moment which the conflicts of Europe would admit to fix the destiny of Louisiana on the best possible basis for the interests of France. On the 10th April, 1803, he summoned to his presence two ministers well acquainted with French continental possessions, one of whom was M. MARBOIS. He told them that he was aware of the vast importance of Louisiana, which had just returned to the possession of France, after having been abandoned since 1763, to Spain, by the fault of the French negotiator. That the British had taken from France Canada, Cape Breton, Newfoundland, Nova Scotia, and the richest portions of Asia, but that he had solemnly

* Histoire de la Louisiane, par CHARLES GAYARRÉ. Premier volume. Nouvelle Orléans: imprimé par Magne & Weisse, 81 Rue de Chartres. 1846.

resolved the Mississippi, which they coveted, should not be theirs. The conquest of Louisiana would be easy if they would only take the trouble to make a descent upon it. If there is yet time they shall see that it is no longer within their reach. I will cede it to the United States. These republicans ask of me only one town in Louisiana; but I already consider the colony as entirely lost; and it appears to me, that in the hands of this growing power it will be more useful to the policy and even to the commerce of France, than if I should attempt to keep it.* This was making virtue of an imperious necessity on the part of a man who understood the vast value of the territories which were slipping from his grasp, which could not possibly be retained, but for which he would not consent to treat even then on a lower basis than fifty millions francs!

But Louisiana has passed into the hands of the United States. All the heart-burnings of those who opposed the measure, all the exultations of its friends have long since subsided, and the sober and enlightened judgment of the whole country and of the world at large, has admitted the wisdom of a purchase which has brought us a great and a fertile country, commanding the gates of the Mississippi, open to the Gulf of Mexico, limitless in resources, and destined in the hands of God, to be the right arm of American wealth, liberty and power.

Out of this vast domain has been carved Texas.† We shall not pause here to speak of this virgin country, which we have hardly yet learned to appreciate either in its elements of wealth or influence.—Texas, which in an evil hour we sacrificed to Spain, but which was watched over by a ruling and benignant providence, and brought back with its gallant populace to the homestead of its republican brotherhood across the Sabine, in defiance of the armies of Mexico, the wiles of European diplomacy and the infatuation of a large portion of our own countrymen.

We confine ourselves here to Louisiana proper. We are acquainted with the interest she excites, necessarily, in every portion of the Union, and know how desirable it is that a general understanding should be had abroad of the peculiar structure of her society, her government and her laws; in so many respects without parallel in any other portion of the States. It could not but be expected that the policy of a state would be largely influenced by the vicissitudes through which she has passed, and by the admixture of races or of people who have found

* MARBOIS' Hist. Louis., p. 274.

† We hold to this interpretation of the treaty of purchase, whatever may be urged to the contrary; and though M. MARBOIS, one of the negotiators, confesses an intentional ambiguity in the boundary clause. Hist. Louis. p. 286.

a home upon her soil, and shared empire and dominion over her. And such indeed is the case, as we shall have abundant evidence hereafter.

To understand fully the constitutional, and legal, and the general history of the state, it will be necessary to refer over and over again to several standard works. These are now upon the table before us; and we shall in *limine*, make a few reflections upon them in their order.

I. *Histories of Louisiana.*—Major AMOS STODDARD published in 1812, a work entitled "Sketches, Historical and Descriptive of Louisiana." It embraces a most interesting collection of material, and discusses in an enlightened and liberal spirit, the policy and history of the state. Mr. Stoddard had full opportunity to inform himself of his subject. He had taken possession of the country for the United States under the treaty of cession, and had had access to all the public records. He also resided several years in the state, and tells us that respectable men in most of the districts, furnished him with such local and other information as they possessed.

In 1827, FRANÇOIS XAVIER MARTIN, judge of the supreme court of Louisiana, published a work in two volumes, on the state. Judge MARTIN's work embraces a very extended field, and might with much propriety have been entitled *Outlines of the History of America since its Discovery*. He is learned and elaborate; but there is nothing in his work which would warrant us to believe that he considered history as a science, and the facts with which it is conversant only important as they indicate principles of universal use and application. Judge MARTIN, when speaking of Louisiana, loses himself in his details, and we have scarcely a comprehensive view throughout the whole work. His history is chiefly important as a storehouse of valuable material out of which another might rear a beautiful structure. The style too, of the production, is frequently dry and inelegant; but of this it is ungenerous to complain, since the author has candidly informed us that as he does not write in his vernacular tongue, elegance of style is beyond his hope, and consequently without the scope of his ambition. He also tells us that the labor of twenty years has been spent in the collection of materials, and that age has at last crept upon him, and the decay of his constitution has given more than one warning, that if the sheets now committed to the press were longer withheld, the work would probably be a posthumous one.*

* Let us not be charged with injustice to Judge Martin. His late retirement, at a ripe old age, from the bench of the supreme court, which he has occupied for over thirty years, is an event which furnishes us an opportunity as a lawyer, to pay a deserved tribute to his pre-eminent legal character. One cannot refer to his voluminous decisions without admiring the depth of learning, the cogency of reasoning

In 1828, the MARQUIS DE MARBOIS, a peer of France, and a man deeply conversant with the history of his own and of other countries, enriched the world with a volume upon Louisiana, conceived in the most liberal, enlightened and philosophic spirit. MARBOIS had been intimately connected with the transactions he was to discuss. He tells us that the treaty of cession of Louisiana had given rise to regrets in France, and that these could not be better dissipated than by a clear and dispassionate view of the whole transaction. No man was better qualified for the work. For more than fifty years M. DE MARBOIS had watched our national progress with an eye evidently partial to our interests, and gratified at our success. His writings bear ample testimony to this declaration. As a sound and judicious exposition of the nature of our government, the present work is valuable; but its peculiar interest consists in the history of the Louisiana treaty, in which he held a conspicuous part. In whatever light it is considered, we cannot point to a single historical work more worthy of a place in every American library.* This noble Frenchman had filled the highest stations in his country. He was Secretary of Legation to the Empire in 1769. At Dresden and Bavaria he was Chargé d'Affaires, and afterwards a Counsellor at the parliaments of Metz. In 1779, MARBOIS was recognized as Secretary of Legation under the CHEVALIER DE LA LUZERNE, minister of France to the United States; and five years afterwards as Chargé d'Affaires to the same government. He married an American lady, returned to France in 1790, was entrusted with important missions by LOUIS XVI, was imprisoned by ROBESPIERRE, made President of the Council of Ancients, banished by a revolutionary faction, restored by Bonaparte, made Counsellor of State and Director of the Treasury, and finally Minister Plenipotentiary on the part of the

and the clear appreciation of right and justice which characterise them all. We admire Judge MARTIN, the jurist. More than fifty years ago he commenced his mission as a lawyer. By industry and application, more than by adventitious circumstances, he succeeded in acquiring his elevated position, and with it a fortune scarcely equalled by any professional man in the country. Besides his history of Louisiana, he has contributed to the world a digest of its laws, and twenty volumes of reports. He is also the author of a history of North Carolina. Possessing a retentive memory and a readiness of application, joined to astute reasoning powers, he has rendered, in the language of the Louisiana Law Journal, decisions on important and difficult questions which possess undoubted merit, and will stand the test of time. The same journal throws some doubt upon the authorities which he consulted in his History of Louisiana; as for instance, Tonti and Vergennes; but we think without any great effect; for Tonti might have been quoted though he never wrote the work, and yet be authority: and the memoir of Vergennes is several times referred to in the English edition of Marbois.

* North American Review, 1830.

French republic to treat for the cession of Louisiana. MARBOIS, after filling other high honors under the Consulate and Empire, was made a peer on the restoration of the Bourbons, Secretary of State, and Keeper of the Seals. He was a man of letters and a philosopher; and in addition to the work before us, has contributed works on morals, on finance and on history.†

In 1830, CHARLES GAYARRÉ, a native of Louisiana, and now the Secretary of State, was induced to publish in the French language, a manual of the history of his state, as he modestly terms it: *Essai Historique sur la Louisiane*. He pleads that this was a youthful production, and that having lately had access to valuable documents from France, he was induced to attempt a more extended and elaborate history of the state. The first volume of this undertaking is before us written in French, and printed in the most beautiful style by a New Orleans publisher. We have placed the work as a text for our article, and shall have frequent occasion to refer to it hereafter.

That a work should be published in the United States and for the use of American citizens, in the French language, has been thought not a little singular by many with whom we have conversed. In this category we were found ourselves, up to the period of the publication, and even now, after having given full hearing to the ingenious apologies of the author, our doubts have been shaken only, and by no means removed. Such a work can only be intended for the people of Louisiana, for those of France have long since lost all interest in their ancient possession. The Louisianians of French origin, or even of French birth, as a general rule, have acquired a sufficient knowledge of English to be able to read and speak it with ease and fluency, we mean the enlightened portion of them, for it is only in this class that Mr. GAYARRÉ could expect readers at all. Why then write an elaborate work for these in a language, though consecrated by the tenderest associations of our nature, rather than in another, with which, as American citizens, it is their best interest as well as their highest duty, to be familiar? We would have proposed this query before seeing Mr. GAYARRÉ'S work, and really after the best reflection have not been able to pursue a different course, however much we may be disposed to do full justice to the motives of the writer and to his work.

Mr. GAYARRÉ tells us that comparing the historian to the artist about to execute a portrait, there are but two methods for him to adopt. He may strike out with a bold pencil the main outlines, the leading traits, the grand points of resemblance,—se contentant de saisir les principaux traits et ce jeu de physionomie qui constitue la ressemblance;

† MARBOIS' *History of Louisiana*, pp. 9, 10, 11, 12.

or he may adopt what is called the anatomical method,—appeler de la peinture anatomique, and descend to the minutiae of his subject, omitting not the slightest and most delicate shades and touches; n'omettant ni une mèche de cheveux ni une ligne veinueuse. Mr. GAYARRÉ has chosen the latter method, because it was a family portrait on which he was engaged, to be kept with the old family mansion and all the heirlooms of a venerated ancestry. Louisiana he can only regard as a tender mother. All the affections of his heart are entwined around her, and the most trifling incidents connected with her history are treasured up in his memory. The language of the historian here is so beautifully tender, and betrays so much of the best feelings of our nature that we cannot refrain from giving the whole passage as he has written it.

"Mon cœur me dit que c'était notre mère, à nous Franco et Hispanio-Américains, qui était là devant moi. Mon cœur me dit que dans le portrait de l'objet aimé, on regrettait toujours l'omission de la moindre minutie, d'un signe, d'une marque presque imperceptible pour un œil indifférent, même d'un pli de vêtement. Ainsi, j'entrai dans des détails qui nuiront peut-être à l'effet de l'ensemble. Je sentis que je travaillais, non pas seulement pour satisfaire le goût ou l'esprit, mais le cœur. J'avoue donc que je me suis plu à contempler la Louisiane avec un microscope, et à la reproduire comme je l'avais vue. C'est-à-dire que, pour le moment, c'est un portrait de famille que j'ai voulu faire, et, je le répète, je suis entré dans des détails qui ne seront nullement intéressants pour l'étranger. Mais j'ai jugé mes compatriotes d'après moi-même, et j'ai pensé que, dans l'inventaire que j'ai fait des souvenirs laissés par leurs ancêtres, ils me sauraient gré de n'en avoir pas omis même les plus insignifiants et d'en avoir par là complété la série. De là, des redites et des longueurs."—*History Louisiana*, p. 5.

It is in this view of his undertaking that Mr. GAYARRÉ has entered upon its execution. His first volume, an octavo of 400 pages, is employed in the discussion of the affairs of Louisiana from the earliest period to the year 1743—the expeditions of DE SOTO, MARQUETTE, LA SALLE,—the settlements of IBERVILLE and BIENVILLE, CROZAT's charter, the Western Company, arrival of the Jesuits in Louisiana, Indian wars, etc. etc., the authorities for all of which are papers brought over from France by Mr. Magne, of New Orleans, private family papers, the work of Garcillasso de la Vega, and the history by Judge MARTIN. The second volume, we understand through another source, is nearly complete, and only delayed in anticipation of important information, which, it is thought, a search in the records of Spain will furnish, and without which, it appears to us, a history of Louisiana must necessarily be very imperfect. This volume will be brought

down to 1803. The American history of Louisiana will occupy a third volume.*

There is one reason which Mr. GAYARRÉ has given for adopting the French language, of which it would not be fair to omit a notice. He is employed upon characters who thought and spoke in that language, and as far as possible he deems it necessary that these should be allowed to give accounts of the scenes and events of which they formed a part. He has in the spirit of the skillful dramatist thought it proper to retire himself behind the scenes, and let the characters on the stage divulge and develop the plot. A better idea of M. de Bienville, for example, can be formed from a single sentiment he may utter, than from any elaborate description. We would far rather, however, admit the justness of Mr. GAYARRÉ's last apology, which he had almost forgotten, but which is very refined and chivalrous. The "fair Louisianians" will appreciate the passage:—"Je dirai donc que, sachant que la plupart de nos Louisianaises ne lisent qu'en l'anglais, j'ai pensé qu'en écrivant dans la langue qui leur est familière, elles seraient tentées, par un sentiment de curiosité, de jeter les yeux sur les pages de cette histoire, et peut-être de les lire jusqu'au bout. Comment pourrais-je résister à cette considération? C'était pour moi plus qu'une raison. C'était une seduction.

We shall postpone an analysis of Mr. GAYARRÉ's work until the completion of the other volumes, so as to take up the subject as a whole, our present object was but to introduce it in company with other authorities, and then to proceed, without delay, to the development of the subject which now occupies our mind.*

* This volume, we are to judge, will be in English, since, as Mr. GAYARRÉ infers, the Americans are only interested in this portion of the history of Louisiana. We are not to expect a translation of the first two volumes, for our author hates translations as he does prefaces: "Je hais les préfaces." He hints to us, however, that he will re-make the work in English hereafter.

* The above named STODDARD, MARTIN, MARBOIS and GAYARRÉ are all the historical works proper, that we have upon Louisiana. The reader, if disposed to extend his investigations in every department, will find material enough within reach. We would name the memoirs of CHARLEVOIX, HENNEPIN and TONTI, upon which Mr. SPARKS comments at large in his life of LA SALLE; also VERGENNES' memoir, DUPRATZ's History of Louisiana, printed in 1758, and the files of the colonial gazettes. Of later days we have "Views of Louisiana," by WM. BRACKENRIDGE, 1814, a work singularly accurate in its delineations of country and in its geographical particulars. Mr. WM. DARBY, formerly of this city, a distinguished geographer and practical man, has also published a work upon the physical character of the state, etc. FLINTS' "Valley of the Mississippi," will also be referred to with advantage. There is also a small volume upon Louisiana prepared by some one at the North, and now in the hands of the teachers and scholars of the Second

II. *Discoveries*.—The legends of DE SOTO, MARQUETTE, and LA SALLE, shall not arrest our attention. These wild and daring passages belong rather to the romancer than the historian. LOUIS XIV seized upon the proposal of IBERVILLE, and addressed himself in earnest to a new and vast country which dazzled his ambition. IBERVILLE, and BIENVILLE his brother, founded a colony of Frenchmen on the shores of Louisiana in 1699. Hard was their struggle against nature, "the buzz and sting of the mosquitoes, the hissing of snakes, the croaking of frogs, and the cries of the alligators, incessantly asserted that the lease the God of nature had given these reptiles had still a few centuries to run." This is the earliest era in the history of Louisiana.

III. *Crozat's Charter*.—In 1712, the King of France granted to M. CROZAT a charter which covered the whole province of Louisiana. The aims of both parties were commercial, and included the whole of the Mississippi and its tributary bays, lakes, rivers and bordering territories. M. CROZAT for twenty years was endowed with exclusive privileges of trade in these countries, to work mines for gold and precious stones, with a large share of the results. The laws, edicts and ordinances of the realm, and the customs of Paris, are extended over Louisiana.

A word about this custom of Paris. France, in ancient times, was governed by the usages of the different provinces. These were unwritten, and of consequence conflicting. Charles V, in 1453, ordered them to be reduced to writing, by commissioners. So far as the customs of Paris were concerned, the edict was not executed till 1510. These customs were embraced under sixteen heads and three hundred

Municipality. Mr. B. M. NORMAN, of New Orleans, published, not long since, a prospectus for a history of Louisiana, which, he informs us, it is his intention to prepare at leisure, and with great care and labor. The early documents of Louisiana, such as CHARLEVOIX and others, are in Mr. FRENCH's library, and might be published as Louisiana Historical Collections. Seriously, a good English history of the state, brought down to the present time, is a great desideratum, but it is a work that few can execute, though many may attempt it. We dismiss our note by referring, as other sources of valuable information upon the subject before us, to the Louisiana Law Journal; to the 2d volume United States Land Office Papers; to HALL's Law Journal, where the discussions of JEFFERSON and LIVINGSTON on the Bature case are to be found; to the frequent decisions upon that case in the Reports of the Supreme Court of Louisiana, and particularly the great case of 1840, and the able arguments of HUNT, MAZUREAU, SOULE, PRESTON, PEIRCE, HOFFMAN, EUSTIS and ROSELIUS, occupying, with the decisions of the court, upwards of a thousand pages of matter; to BULLARD & CURRY's Digest of the Laws of Louisiana, and the debates on the adoption of the constitution of 1846. We also refer to the Digest of the French Colonial Papers, which Mr. FORSTALL is now publishing in our journal. With such elements to work upon we ought to have a LOUISIANA HISTORICAL SOCIETY, which, in fact, it is time for us to set about forming.

and sixty-two articles. The heads are fiefs, quit-rents, movables and immovables, complaints, actions, prescription, redemption, arrests and executions, servitudes, community of goods, dower, guardianship, donation, testaments, successions, seizures and sales,† The customs of Paris extended to all the French colonies.‡

The privileges allowed to Crozat were ample, but so vain are the calculations of men when employed upon novel enterprises, they satisfied not one of his greedy desires after wealth in the western world. The grant was surrendered after five years, into the hands of the King, with the bitter complaint, that from the imbecility of the colony, the strength of the Indians, the presence of the British, and the sterility of the soil, it had proved of no kind of value whatever to him, but rather a ruinous expense.

IV. *The Western Company and Law.*—There settled in Paris about this period a man from Scotland, by the name of JOHN LAW. He was of a singular character, a restless projector, a daring financier, high-minded and full of enterprise. This extraordinary man soon succeeded in gaining a ruling influence over the Duke of Orleans, then Regent of France, obtained a charter for a bank of \$1,200,000, substituted paper for specie, and set the whole French nation mad with magnificent schemes of creating wealth as it were, by the wand of a magician. The chancellor D'Aguesseau opposed his daring scheme with infinite peril to himself. To the royal bank of Law was attached a great commercial company, in which were to be concentrated all the rights, privileges and possessions of all the trading companies then chartered in France. To this company was granted the great territory of Louisiana as it was surrendered up by CROZAT. All Paris was in commotion, every man, woman and child became a financier, the boot-black and the collier of to-day were the grandees of to-morrow, and their splendid equipages dazzled the Parisian populace. The Royal Bank Stock went up to six hundred times its par value, and dividends were rendered of two hundred per cent. The exhaustless mines near the Mississippi would reimburse any investment, it was said. In three years JOHN LAW was a bankrupt and a beggar. The government of France received a terrible shock; the deluded votaries of stock-jobbing were undone; the magnificent western company—the Mississippi scheme, became a by-word; the banking bubble, when inflated to the skies, had burst!

The charter of the Western Company was granted for twenty-five years. It was to have exclusive privileges of trade, and of the purchase of beaver skins for exportation. The company might make all

† Louisiana Law Journal, pp. 15, 46.

‡ MARBOIS' History Louisiana.

Indian wars and treaties, work all mines, grant lands, construct fortifications, nominate governors and appoint inferior judges. Its vessels and crews to be of the French nation. The descendants of European parents born in Louisiana to be counted natural-born subjects of France. The inhabitants of Louisiana are exempted from taxes, and the company's goods from duty. The company engage to bring into Louisiana six thousand white persons and three thousand negroes. The issue of its stock is not limited in amount, but the shares are to be 500 francs each. The holder of fifty shares will be entitled to a vote in the affairs of the company, which are to be managed for the first two years by directors appointed by the King, and then by those appointed by the stockholders every third year.

There are different accounts of the condition of Louisiana during the fourteen years it remained under the Western Company, who enjoyed the privileges granted to LAW. DUPRATZ and CHARLEVOIX, quoted by MARBOIS, represent everything in the most deplorable condition; whilst Judge MARTIN, on a comparison of all the authorities, has concluded that these were the best years which Louisiana knew under the dominion of France, the whole population having increased from 700 to 5,000, and the black from 20 to 2,000; "a vast number of handsome cottages lined both sides of the river at the German coast, the culture of rice, indigo and tobacco, and a regular administration of justice were provided for."

The Western Company, in despair of finding the gold they had anticipated in Louisiana, from mineral researches, turned their attention to agriculture. To promote their aims, large grants of the soil were made to powerful and wealthy individuals. To LAW they granted a plot of twelve miles square. These grantees were to introduce settlers, but they succeeded to an extent far less than was anticipated, while sanguinary Indian wars desolated the colony. The Company, in utter hopelessness, threw up their charter in April, 1732, which the King accepted, and declared the commerce of Louisiana thenceforward free.

V. *French Colonial Government.*—The commissioner SALMON, took possession for the King. He found property to which the company had sold out their rights to the monarch amounting to two hundred and sixty-three livres: amongst this property was found 8,000 barrels of rice. The new government established consisted of a superior council, of the Governor General of New France, the Governor and Commissary of Louisiana, the king's Lieutenant and the town Mayor of New Orleans, six Councillors, an Attorney-General, and a Clerk.*

A war broke out between Great Britain and France in 1760, whose

* MARTIN'S History of Louisiana.

influences were felt throughout all America. We know the particulars of this conflict, in which our own Washington had so conspicuous a part. Canada fell into the hands of the English at last, and rather than submit to the consequences, large numbers of its inhabitants sought a home in southern climes, fixing themselves on the Acadian coast of Louisiana, or taking their course westward of the river, to form the settlements of Attakapas, Opelousas and Avoyelles.

VI. *The Cession of Louisiana to Spain.*—France looked to Spain in her emergencies, and the DUKE OF CHOISEUL, the minister, entered into a family compact with the Spanish king, on the 15th August, 1760, and on the 3d November, 1762, a secret treaty between the two governments ceded the territory of Louisiana west of the Mississippi, with New Orleans, to Spain.

The bad system of government under which Louisiana long suffered, was attended with the consequences which were to be expected from it, and the sovereignty of the finest country in the world, says MARBOIS, a country which might have become another France, was of no use to the parent state, but was even a charge to her. After the experience of several years, the government wearied with a possession which its faults and ignorance had made burthensome, felt disposed to abandon it.

In 1763, Great Britain, France and Spain, entered upon the treaty of Paris, and terminated their difficulties. France abandoned to Britain, Nova Scotia, Acadia, Canada, Cape Breton, and all the islands and coasts of the gulf and river of St. Lawrence, the whole of Louisiana east of the Mississippi, except the town of New Orleans. The navigation of the Mississippi is declared free to the subjects of either nation. Thus did France by her cession to Britain and Spain, divest herself of every foot of territory she held in North America.

The private treaty of cession to Spain was long held secret, and it was not until 1764 that D'ABADIE was ordered by LOUIS XV to announce the fact to the colony. D'ABADIE was heart-broken at the intelligence, and died before he could communicate it. The duty devolved upon his successor, AUBRY. A day of lamentation and sorrow had dawned upon the unfortunate Louisianians, and they heard their fate with settled gloom. A general meeting of the leading inhabitants of all the parishes assembled hastily in New Orleans, and entreaties were sent up to the throne that this painful treaty might not be made to go into effect. LOUIS XV declared the cession irrevocable.

Ulloa.—DON ANTONIO DE ULLOA arrived in Louisiana in 1766, appointed, as he professed, by CHARLES XII of Spain, to take possession of the province. His powers being demanded by the colonists, were not shown. This man was a scholar, a mathematician, and an astronomer, but was held in detestation by the Louisianians, and the

more particularly that AUBRY, the governor, exhibited towards him in appearance, the most humiliating obsequiousness. The Council, over the head of the Governor, notified the Spaniard to produce his powers, or to depart the province. He determined upon the latter alternative, and in a few days made sail for Spain, amid the universal acclamations and rejoicings of the people.*

O'Reilly.—Scarcely had the colony breathing time before it was announced that a Spanish frigate and transports were upon the coast and approaching the town. Notwithstanding some threats of resistance on the part of the inhabitants, Don Alex. O'Reilly, commander of the Spanish forces, landed, and sent up a message to the governor, informing him that he was prepared to take possession of Louisiana; that he would not publish more of his orders until put into possession; and that any show of opposition would be signally punished. The inhabitants returned a deputation to the Spaniard, declaring their intention to abandon the colony, and requesting two years delay to effect the arrangement; O'Reilly consented with apparent cheerfulness, and with the warmest professions of regard. He soon after landed at the city, and took formal possession in the name of the king.†

But this display of clemency and virtue was a dastard scheme to ingratiate himself into the confidence of the inhabitants, and then, by a single stroke, to bring down upon their heads the worst excesses of tyranny. On a shallow pretence some of the first citizens were arrested and thrown into prison. They were declared guilty of treason against a government which they had never acknowledged, and which could not in fact be considered as established. The prosecution was based upon the statute of Alphonso VII. (*Partidas*, vii. 1.), making it death to incite insurrection against the king. Villere was murdered in cold blood,

* In a statement by Governor ULLOA, of the events in Louisiana, a paper of 300 pages, now amongst the colonial records of Paris, Mr. FORSTALL conceives it clearly demonstrated that AUBRY was at the bottom of the plot, the principal informer; and that the design of the colonists in the whole transaction was not for the purpose of remaining under a kingly dominion, but that the end was freedom. But this was ULLOA's statement, which, after all, ought not to be too much relied upon in the circumstances of the case.—*Com. Review*, vol. i. No. 4, p. 257.

† The trade of Louisiana at this time, 1769, was not inconsiderable. The following were a few of the items:—

Indigo, annually,.....	\$100,000
Rice, Peas, and Beans,.....	4,000
Deer Skins,.....	80,000
Lumber,.....	50,000
Naval Stores,.....	12,000
Tallow,.....	4,000

The population of New Orleans was 3190, and of Louisiana 13,538.

Marquis and De Noyant, French officers, La Frenière the attorney-general, Milhet and Caresse, merchants, after the form of a trial were sentenced and executed. Posterity, says the historian, Martin, the judge of men in power, will doom this act to public execration,—and posterity, we add, has already regarded it as one of the blackest which it is the shame of history to record.

What was the precise character of the powers conferred upon O'Reilly has never yet been satisfactorily determined, and it is almost equally uncertain how far he construed these powers, and how far, in one particular, he exerted them—we mean in relation to the change of government. This question has within the last forty years been extensively discussed in Louisiana, both in the forum and out of it, and opposite opinions held.

The question was first opened in 1809 during that famous discussion of those remarkable men, Edward Livingston of Louisiana, and Thomas Jefferson, on the Batture case. Mr. Jefferson maintained that the proclamation of O'Reilly in November, 1769, introduced only a specific and not a general change in the polity of the colony, that it neither abolished nor was it intended to abolish the whole system of French jurisprudence then in force. Mr. Livingston on the contrary held *

1. That, though the transfer of a country does not in general change its laws, yet this is not to be understood in relation to those fundamental laws which affect the prerogative of the sovereign, which are of necessity changed by the cession, because the transfer releases the inhabitants from the allegiance due to the former sovereign, and makes them the subjects of another, towards whom it places them in the same relation as all his other subjects.

2. That O'Reilly's proclamation changed not only the form of government but the administration of justice, and with it all the laws of the province.

3. That Spain had promulgated a code for the government of all her colonies, and this code declares that the laws it contains shall govern not only all the present colonies of Spain, but such as it may acquire hereafter. A great point in this celebrated controversy was to discover by what law the batture was to be governed at the period when Louisiana passed into the hands of the United States;—by the law of France or by that of Spain.†

The king of France, in writing to D'Abadie at the period of the cession, conceded that the laws, forms and usages of the colony would be preserved, *que les juges continuent, ainsi que le conseil superieur à rendre la justice, suivant les lois, formes et usages de la colonie;*

* Hall's Law Journal, vol. v.

† Law Journal, No. iv. p. 89.

but this does not appear to have been inserted in the treaty of cession to be found in the separate documents for 1837. O'Reilly, as soon as he was at ease in his government made a proclamation to the people. He declared himself empowered by the king's letters patent, issued at Aranjuez to establish that form of government, dependence, and subordination, which should accord with the good of his service and the happiness of his subjects in the colony. He therefore proceeded

1. To establish a cabildo or city council for the administration of justice, etc., with six perpetual regidores who shall elect alcaldes or judges, etc., etc.

2. To prepare an abstract of the Spanish laws, in the form of a code which should have effect until a more general knowledge of the Spanish tongue would admit of the introduction of the whole body of that law. This code to be applied unless the pleasure of the king of Spain be expressed to the contrary. The code occupies some sixty closely printed pages, and may be found in the second number of the Louisiana Law Journal, a work which, for the sake of sound jurisprudence, we wish could have met with a far better and more deserving destiny.

Whatever may have been the powers of O'Reilly, we think it on the whole clear that the laws of Spain were gradually extended by him over Louisiana, and afterwards by his successors, so that, in the end, but little traces of French legislation remained. "La Frenière and Doucet, the only French lawyers at the time, had been dispatched by O'Reilly, who acknowledges himself, by his proclamation, the want of advocates in the colony. The inhabitants were compelled, through necessity, to apply for legal advice to the Spanish lawyers that had accompanied the expedition." The supreme court of Louisiana have also, on several occasions, arrived at the same conclusion. In *Beard vs. Poydras*, 4 *Martin's Reports*, Derbigny, J. said, this publication, (O'Reilly proclamation) followed from that moment by an uninterrupted observance of the Spanish law, has been received as an introduction of the Spanish code in all its parts, and must be considered as having repealed the laws formerly prevailing in Louisiana. The court afterwards, in *Malpica vs. McKown*, 1 *Louisiana Reports* p. 255, declared that the laws of Spain having been in force in Louisiana need not be proved as facts. The laws of Spain, said Judge Martin, when he had laid aside the gown and taken up the pen as the historian, became the sole guide of the tribunals in their decisions, the transition was not perceived before it became complete, and very little inconvenience resulted from it.

It is unnecessary to analyze minutely the government of Louisiana at this period. The inhabitants were compelled to submit with the

best grace when abandoned by France, and when resistance would have been fruitless. Excepting a few acts of tyranny, O'Reilly's government was not intolerable. He displayed, on some occasions, higher and better principles, but had given such offence in general that on returning to Spain, he was prohibited from appearing at court. Louisiana lost largely during this administration, by the emigration of numbers of her best citizens.

To exhibit the liberality of the Spanish colonial policy, it may be remarked that, in 1778, Mercier's Law deux mille quatre cent quarante was prohibited from being read in Louisiana, and also Robertson's History of America, for which the king thought he had just reason.

When the American Revolution, with its deeds of high daring and patriotism, had progressed, and Spain, in an endeavor to mediate, had failed, the catholic king prepared himself for war. Galvez, governor of Louisiana, with the first intelligence, threw himself upon the British garrison at Baton Rouge, and captured it. An American minister was sent to Madrid to negotiate a favorable treaty for his countrymen, and to obtain for them, if possible, the free navigation of the Mississippi to the sea. The French minister had previously intimated that the exclusive right to the navigation of that river, would be a *sine qua non* on the part of Spain, and, pressed by the exigencies of affairs, Congress was at one time, 1782, disposed to make the concession, and instructed its minister to do so, if a favorable treaty could in this way be negotiated.*

Spanish Treaty of 1783.—The treaties between Great Britain, France, Spain, and the United States, concluded in 1783, opened the navigation of the Mississippi without restrictions to the United States; ceded the Florida's to Spain; and bounded the possessions of the two countries by a line eastward of the 31° parallel on the Mississippi to the Apalachicola river, through the middle of that river to its junction with the Flint, on the Flint to the head of St. Marys river, down the St. Marys river to the Atlantic. These treaties were soon followed by embarrassing disputes, in which the Spaniards laid claim to a large tract of country, and an exclusive right to the navigation of that portion of the Mississippi which passed through their territories. Against both of which claims the United States protested.

Spanish Scheme for Dividing the Union.—It may be remarked, that very little if any intercourse was tolerated by the Spaniards, through the Mississippi with the people of the United States. Any attempts to navigate the river, or to introduce merchandise into New Orleans by boats, were resisted, and the property seized. About the year 1787, General Wilkinson, a revolutionary officer, conceived the design of making a settlement of American families in Louisiana, for which he

* Marbois.

expected to receive some commercial favors from the Spaniards. He descended the river to New Orleans with a small adventure of tobacco and flour, etc., and, by an artifice, so worked upon the fears of Miro the governor, that he was disposed to listen to the proposal of opening a traffic with the people of the Western States. Miro flattered himself that a division might in this way be insured of the States of the American Union, and those Westward of the Alleghany Mountains attached to the interests of Spain. His suggestions were favorably received at Madrid, and the court, according to Marbois, consented, in 1788, to cede the free navigation of the Mississippi to the states founded on the left bank of that river, on the condition that they determined to form an empire distinct from that of the Atlantic States. The people of these states, however, having ceased to feel the grievances they suffered under the articles of American confederation, and having passed under the admirable federal constitution of 1789, forgot their dissensions and treated every proposition of the Spaniards with contempt.

Freedom of the Mississippi.—In 1790 it was again attempted to procure from Spain the navigation of the Mississippi for the United States, also the island on which New Orleans is situated, and the Floridas. For these concessions Spain was to be guaranteed the rest of her possessions in the difficulties which threatened her with England. The proposition was not assented to, but five years after the American plenipotentiaries signed at San Lorenzo, a treaty stipulation for the freedom of the river to their countrymen, and a freedom to use for ten years the city of New Orleans as a depot for their merchandise.

Carondelet's Plot.—Spain had no sooner signed the treaty than she began to display the utmost regret for her liberality. Her alliance with France, and the position of the United States, determined her by all means to hold on to the territory in Upper Louisiana, which she had agreed to cede. In vain were officers sent on the part of the United States to take possession of the posts and settlements. In vain did the settlers themselves protest against the delay. A magnificent scheme had been planned, and was in progress, the design of which was to prevent Louisiana forever from falling into the hands of the American government. The Baron de Carondelet endeavored to sound General Wilkinson on the subject, and to bring him over to the plan by flatteries and by the most liberal offers. Wilkinson dismissed the messenger with an expression of views little favorable to the success of the project which was opened to him. We shall not on this occasion indulge ourselves with any reflections on the course and character of this officer, or pronounce any opinion as to the extent of his innocence or blame in these transactions.*

* We have not within reach the memoirs of Wilkinson. In the difficulties of his

The face of European affairs in May, 1798, influenced the American people to put on their armour. Washington was again appointed to the head of the army; and the difficulties with regard to Louisiana, and consequent losses to the government, forced upon all minds the absolute necessity for the acquisition of New Orleans, whatever might be the hazard.

Schemes for the possession of Louisiana.—Louisiana indeed occupied an unenviable position at this time. She had been abandoned by the French in an evil hour, and contrary to her strongest remonstrances. Hardly had the cession been made, however, when it came to be regarded in France with a mortification and regret which increased the more the subject was regarded. So strong was this feeling that, on the breaking out of hostilities with the Spaniards, Mr. Genet, the young and rash minister from France to the United States, employed himself immediately after his arrival in devising and carrying out a comprehensive scheme for the invasion of Louisiana, with troops and arms procured in the United States. In vain did General Washington oppose the duties of neutrality, and the principles of our government. Mr. Genet appealed from the president to the people, and though his course was condemned by the French government, the Committee of Public Safety immediately instructed Mr. Barthelemy, the ambassador of the French republic to demand from Spain the restoration of Louisiana. In other respects was the position of Louisiana remarkable. The United States had been long regarding with a jealous eye the existence of a territory in the hands of a foreign power, capable of influencing, and of determining and controlling the destiny of the immense regions of country embraced in the Mississippi valley. A plot had been laid too by an American citizen, Blount, then Governor of Tennessee, the object of which was to throw down upon Louisiana, during the wars between England and Spain, in 1797, through the medium of the western waters, large numbers of British troops from Canada. The plot was discovered, Blount degraded by the Senate, and the English government exonerated from the charge of any knowledge of his proceedings.

The eyes of Spain were not closed to the difficulties of her position, she could not be heedless, of the "warnings" so often repeated, and so full of meaning. Bonaparte had by this time assumed the reins of government, and he cherished the idea of bringing back to the parent country a province which he conceived had been unnaturally severed from her. He conceived too that it was possible by this means to re-

time his conduct was often open to mistrust. The question is a delicate one, but Congress, after a hearing, dismissed the charges that were brought against him. On another occasion we shall refer to the subject.

store the ascendancy which France had in former periods occupied in America. The consul entered at once upon negotiations, and worked upon the court of Madrid by his representations "that Louisiana restored to France would be a bulwark for Mexico, and a security for the tranquillity of the Gulf."

VII.—*Spanish Treaty of Cession*.—On the first of October, 1800, was concluded, between the Catholic King and French Consul, the treaty of Ildefonso, the third article of which was that His Catholic Majesty promises and engages to retrocede to the French republic, six months after the full and entire execution of the conditions therein stipulated in relation to the Duke of Parma, the colony and province of Louisiana, with the same extent that it had in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and the other powers. The stipulations in relation to the Duke of Parma was, that he should be put into possession of Tuscany. Another stipulation in the treaty provided for a preference to Spain, in the event of Louisiana passing again out of the hands of France.

French Government.—Bonaparte took immediate steps to enter upon his new possession, to establish a government over it, and to promote by judicious steps the health of its capital city. General Victor was appointed commissioner for accepting the transfer. Laussat, the colonial prefect, arrived in Louisiana, and issued a proclamation denouncing the previous separation of the province from France as the fruit of a corrupt government, an ignominious war, and dishonorable peace. "The French still remembered that a portion of the inhabitants of Louisiana were their descendants, with the same blood running in their veins; but as soon as France, by a prodigious succession of triumphs in the late revolution, had recovered her own freedom and glory she turned her eyes towards Louisiana, the retrocession of which signalized her first peace." The Louisianians prepared an address in reply, in which, after a compliment to their late governors, they declared that the proclamation had filled the people with gratitude for its parental care, and that they already felt the happiness of their union with the French republic. The happy selection of some of her most virtuous citizens to govern them, and her choicest troops to protect them were sure pledges of their future happiness and prosperity. They offered in return their love and obedience, and would endeavor to prove themselves worthy of the title of French citizens."*

* We have followed Martin, but there is another version to be found in the pages of Marbois—"Every one will be astonished, *Hist. Louis.*, p 207, to learn that a people of French descent have received without emotion, and without any apparent

Everything seemed now prepared for the re-establishment of French dominion in Louisiana. The Spanish commissioners had issued their proclamation, announcing the cession, the good will of their sovereign towards the colonists, his ardent desires that the privileges of the clergy and of the people, and the laws of the province as then administered, would be preserved and perpetuated by the King of France, and, according to Martin, every one was ready to mount the tri-colored cockade when a vessel from Bordeaux arrived at the Levee, announcing that Louisiana had become a part of the United States, by an act of Napoleon Bonaparte. But we are anticipating.

Uneasiness of the American People.—As soon as it became known in the United States that France had again come into possession of her old province, the greatest anxiety and uneasiness was manifested on every hand. The west was suddenly in a flame. New Orleans was about to escape, and with one deep and pervading sentiment they exclaimed "The Mississippi is ours. Its mouth is the only issue which nature has given to our waters. If our liberty be disputed nothing in this world shall prevent our taking forcible possession. If congress refuses us effectual protection, we shall adopt the measures which our safety requires. No protection, no allegiance!" It was everywhere taken for granted that France would entirely exclude American citizens from the province, and congress itself, and the president, Mr. Jefferson, shared in the general uneasiness.†

Mr. Monroe was dispatched to Paris. Mr. Livingston, the Minister there, had already displayed some temper upon the subject, and had advised his government to extreme measures. Hasten to France, said Mr. Jefferson to Mr. Monroe, if we cannot by a purchase of the country ensure to ourselves a perpetual peace and friendship with all nations, then, as war cannot be far distant, it behooves us immediately to prepare for it. We saw, said a memorial of the Territory of Mississippi, in January 1803, to Congress, we saw our trade prospering, our property rising in value, and we felicitated ourselves. A recent order of the government of Louisiana prohibiting intercourse between the Louisianians and Americans has embarrassed our trade, and breathes a spirit of enmity to the United States. Mr. Monroe was directed to offer two millions of dollars for the city of New Orleans, and Mr. Rost, of Penn-

interest, a French magistrate, who comes to us accompanied by his young and beautiful bride, and preceded by the public esteem. Nothing has been able to diminish the alarm which his mission causes. His proclamations have been heard by some with sadness, and, by the greater part of the inhabitants, with the same indifference as the beat of the drum is listened to which announce the escape of a slave, or a sale at auction.

† Marbois *Hist. Louis.* p. 221.

sylvania, proposed in the Senate to place five millions of dollars at the disposition of the President, and to raise fifty thousand men to take possession of Louisiana by force.

French Views of Louisiana.—Napoleon was informed of all of this. He saw a thick cloud impending over France and another fifteen years war with England, as he expressed it on the eve of breaking out. He pondered deeply upon the crisis, and summoned two of his ministers to his side with the language with which we opened our article. With these he consulted, and was advised to opposite measures. We should not hesitate, said one, to make a sacrifice of that which is slipping from us. The efforts of France to form colonies in America have always been fruitless. Commercial establishments are better than colonies. "We must retain Louisiana," said the other, "*there does not exist on the face of the globe a single port, a single city susceptible of becoming as important as New Orleans. All the productions of the West Indies suit Louisiana. If we must abandon St. Domingo, Louisiana will take its place. Attempts have been made there to introduce the vine, the olive and the mulberry tree, and these experiments have but too well succeeded. If the colony should become free, Provence and our vineyards must prepare for a fearful competition with a country new and of boundless extent.*" Napoleon yielded to the former opinion, and Barbé Marbois opened negotiations at once.

French and American Negotiations.—Mr. Monroe arrived in France. Mr. Livingston met him with the expression—"I wish that the resolution offered by Mr. Rost in the Senate had been adopted. Only force can give us New Orleans." Mr. Livingston had no confidence in the overtures of M. de Marbois. The three negotiators met together. They deliberated. The question came before them in every possible point of view, and the terms of a treaty sufficiently liberal but indefinite in an important particular, was agreed upon at last, and presented to the First Consul, who approved it on the spot, with the remarkable words—"Let the Louisianians know that we separate ourselves from them with regret, that we stipulate in their favor everything that they can desire; and let them, hereafter, happy in their independence, recollect that they have been Frenchmen, and that France in ceding them has secured for them advantages which they could not have obtained from any European power!"

VIII. *Purchase of Louisiana by the Americans*—The treaty of Paris, 13th April, 1803, ceded to the United States for ever and in full sovereignty, the province of Louisiana, with all its rights and appurtenances in full, and in the same manner as they had been acquired by France from the Catholic King. Eight stipulations exist in the treaty. The first and second provided for the full surrender of the province, the

third for its privileges under the Constitution of the United States, the seventh for privileges of trade to the province for twelve years to French and Spanish vessels. The United States agreed to pay sixty millions of francs and to discharge certain claims of their citizens on France.

Ceremonies of Delivery.—No sooner had the treaty of Paris been signed than a new difficulty arose. The King of Spain protested against the transfer, and his minister at Washington was authorized to declare that no alienation of the territory by France could be conceived valid after her express promise never to alienate to other than Spain. Bonaparte had appointed Laussat to receive the territory from the Spanish government and deliver it over to the Americans. The Spanish flag descended from its staff in the public square at New Orleans, and the tri-colored one of the French republic ascended in its stead. The banner of the French republic, said Mr. Laussat, now displayed, and the sound of her cannon announce the return of French dominion; but it is only for an instant. I am here to deliver possession of the colony to the United States. Wilkinson and Claiborne appeared in New Orleans on the part of the American government. On the 20th December the American eagle occupied the staff where the tri-colored flag had waved for twenty days, and amidst the roar of cannon and the shouts of the citizens, the province passed forever from its allegiance to France. A group of the citizens of the United States, says Martin, who stood on a corner of the square, waved their hats in token of respect for their country's flag, and a few of them greeted it with their voices. No emotion was manifested by any other part of the crowd. The colonists did not appear to be conscious that they were reaching the *Latium sedes ubi fata quietas ostendunt*. Marbois relates a beautiful incident here, strikingly illustrative of the enthusiastic patriotism of the French. When the French colors were lowered and received in the arms of the French who had guarded them, their regrets were openly expressed, and to render a last homage to this token, which was no longer that of the sovereignty of the country, the sergeant-major wrapped it round him as a scarf, and after traversing the city, proceeded towards the house of the French Commissioner. The little troop accompanied him; they were saluted in passing before the lines of the Americans, who presented arms to them, and they finally delivered the banner into the hands of Laussat.*

Ambiguity in the Treaty.—The treaty of cession left the boundaries of Louisiana in some ambiguity in consequence of the great difficulty of coming to correct conclusions as to where the province might be conceived to terminate on the East and West and North-west. Marbois

* Marbois' History of Louisiana, p. 335.

predicted that difficulties would arise out of the ambiguity, and warned the other negotiators; but no method of obviating them could present itself. The fear of opposition on the part of Spain prevented the court of Madrid from being consulted; and indeed the pressing exigencies of the time did not admit of delay for such consultation. Napoleon thought the ambiguity proper enough, and that it would have been good policy to have placed one in that part of the treaty, whether it existed there or not. The prediction of M. de Marbois was verified. We all recollect the embarrassing questions which were agitated in the diplomatic correspondence of Mr. Adams and Don Louis de Onís in 1819, on this very subject of conflicting American and Spanish boundaries, and the resulting treaty which transferred to us Florida, and fixed the Sabine as our western boundary. The course of Mr. Adams in this particular has been so much mixed up with politics, that we decline discussing it.

Opposition of Spain.—The Spanish court were not informed of the proceedings in relation to Louisiana until the treaty was concluded, which, as we remarked before, gave great and perhaps just offence. For upwards of a year it was regarded with sullen dissatisfaction; and it was not until February, 1804, that the Spanish minister gave notice to Mr. Pinckney that the benevolence and friendship of Spain towards the United States, had overcome her opposition.

Action of Congress.—In the meanwhile all was not quieted at home. Mr. Jefferson called together Congress earlier than usual, and submitted the compact for their confirmation. All the bitterness of party was at once enkindled. It was denied in the Senate that the Constitution permitted the acquisition of foreign territory, and more particularly without the consent of its inhabitants. It was denied in the House that the indemnity was at all reasonable or just. But the administration was in too powerful a majority to render opposition other than futile in the extreme.

IX. *Territorial Government of Louisiana.*—The first act of Governor Claiborne was to settle the judiciary system of the territory, which he did by establishing a court of pleas, consisting of seven justices.

The act of Congress, 20th March, 1804, established the territorial government. Louisiana was divided into two sections, of which that which now constitutes the State of the same name was to be known as the Territory of Orleans. The act provided for a Governor, appointed for three years, unless sooner removed by the President; a Secretary for four years; a Legislative Council of thirteen freeholders; a Judiciary, according to the regulations of the Legislative Council, but to be appointed by the President.

The period which elapsed between the act of Congress of 1804 and the one of March 2d, 1805, which set up another territorial government of Louisiana, was one of dissatisfaction and uneasiness to the people of that section. They complained of the Governor, that he was unacquainted with their language, their laws and their interests, that he exhibited favor only to those of his own country, that the English language was attempted to be set up in all judicial proceedings, that the division of the country postponed almost indefinitely the prospect of its becoming a state, and that it suffered greatly from the want of a circulating medium. The citizens held a meeting in the city, and unanimously resolved upon memorializing Congress in relation to their grievances. The Council, as established in the meanwhile, passed several acts bearing upon the proper organization of the territory, dividing it into twelve counties, with inferior courts in each, instituting the modes of procedure, defining crimes, etc., according to the common law, chartering the city, and establishing (but only on paper) a university. The Council also appointed a committee to prepare a Civil and Criminal Code, with the aid of two professional gentlemen, whose remuneration was fixed by law.

Territorial Government of 1805.—The effect of the dissatisfaction in New Orleans produced the territorial act of 1805, by which Congress set up a government in Louisiana similar to that of the Mississippi Territory, and provided for its admission into the Union as a state as soon as 60,000 inhabitants could be afforded. This act gave to the people the election of a Legislature, and to the Legislature the election of a Legislative Council, or upper house. In these the property qualification was insisted on. The first acts of this new legislative body were the adoption of the Black Code, or *Code Noir*, for the government of slaves, and the appointment of two lawyers, Messrs. Lislet and Brown, to prepare a Civil Code, based upon the former laws of the country.

Burr's Plot.—Having settled these points, Louisiana, prepared to meet the position of things which was forced upon her in relation to Spain, and in the anxieties which arose in relation to boundaries, and the opposing claims of the two nations, it is likely that hostilities would have occurred had not the intimation of a vast scheme on foot for the separation of the western country from the Union, at the head of which, it was said, was Col. Burr, influenced Gen. Wilkinson and the Americans to compromise matters with the Spaniards, and concentrate everything to meet the anticipated danger. The reports which reached Louisiana each day in relation to this plot were alarming; military preparations were being urged upon all sides, and Burr himself, after a

reward offered for his arrest, was taken at Fort Stoddard, and conveyed to Richmond.

Old Civil Code of 1808.—Messrs. Moreau Lislet and Brown, reported to the Legislature in 1808, a civil code for the government of the territory, which was adopted, and is known as the old Civil Code. It purported to be a Digest of the civil laws then in force, with such alterations and amendments as were necessary to the present form of government. The compilers did not refer solely to the Spanish colonial law, the Partidas and the Recopilacion, but drew largely upon the Code Napoleon, the project of which, inferior in many respects to the Code itself, having only at that time come to hand. This Digest, a volume of 500 pages, was printed in French and English, divided into three books on persons, on things, on the acquisition of things; including subdivisions of titles, chapters and articles. It forms the basis of the present Civil Code of Louisiana, and is to a large extent identical with it. The Digest repealed only all laws irreconcilable with it, and therefore did not set up a new and independent system of jurisprudence, which Judge Martin much regrets, but only furnished an "incomplete Digest of existing statutes, which still retained their empire, and threw out thus a decoy instead of a beacon to the people."

Imperfections of the Law.—The jurisprudence in Louisiana at this period presented a singular jumble of various and in many respects opposing systems, scarcely, if at all, harmonized in their important particulars, or perhaps understood by legislators, lawyers or people. The *Fuero Viejo*, *Fuero Juezo*, Partidas, Recopilaciones, *Leyes de las Indias*, *Accordados* and Royal Schedules, being unrepealed, and of course in effect, were yet not to be found complete in a single library; and of some of the laws, according to Martin, there was not a copy in the territory. The Spanish commentators upon these were relied upon, the Roman civil law, and the works of Pothier, D'Aguesseau, Dumoulin, etc. The trial by jury, too, was lamentably deficient, and even ridiculous; the arguments of counsel on one side or the other being in a language which the jurors did not understand.

Spanish Difficulties.—The conflicting claims of the United States and Spain to the strip of territory East of the Mississippi river, and South of the parallel 31° to the Perdido river, being upwards of two hundred and fifty miles in length and fifty in breadth, were brought to something like a crisis in 1810, by the inhabitants seizing upon the Spanish post at Baton Rouge, holding a convention at St. Francisville, declaring their independence and setting up a constitution; and by a proclamation of the President of the United States, taking possession of the territory. The event was peaceable, and the parishes of Feli-

ciana, East Baton Rouge, St. Helena, St. Tammany, Biloxi and Pascagoula, were soon after established.

On the 11th February, 1811, an act of Congress was passed to enable the inhabitants of Louisiana to form a constitution and state government, if the same should be the desire of the people, signified by the calling of a convention. This body being called, assembled in November, at New Orleans, and prepared, and unanimously signed a constitution, based upon that of Kentucky, on the 22d of January, 1812.

X. STATE OF LOUISIANA.—The constitution of 1812 remained the organic law of the State until the present year, but as it is now superseded we shall defer any comments upon its provisions until, in future sheets of our article, it will be appropriate to compare and contrast the two systems of laws. We also postpone to the same place the consideration of the judiciary system at that time established.

War of 1812.—The share which Louisiana took in the English and American war of 1812, though signalized in history, is so familiar that it will detain us but a moment. Wilkinson took possession of the country west of the Perdido River, then in the occupation of Spain. The English colonel, Nichols, arrived at Pensacola, and made proclamation to all Englishmen, Spaniards, and Frenchmen to join his standard and resist the encroachments of the United States. To the people of Kentucky this ridiculous officer proposed similar terms. To the privateer Lafitte and his followers, at Barrataria, he was most prodigal in his offers. The overtures, says Marbois, were rejected with indignation, and the men who saw no degradation in enriching themselves by plunder had a horror of treason. The course of General Jackson, in relation to the Spaniards and English at Pensacola, is familiar to all.

Battle of Orleans.—An attack upon New Orleans was every moment expected, the most extraordinary preparations were being made to raise forces, and provide fortifications and armaments to meet the impending danger. The city was all excitement. "The people were preparing for battle as if for a party of pleasure, says the historian; the streets resounded with martial airs, the several corps of militia were constantly exercising; every bosom glowed with the feelings of national honor." The West was pouring down upon the city—martial law was proclaimed.* The battle of New Orleans, of 8th January, 1815, was fought and won to the high honor of the American people, and the lasting laurels of the great man who commanded, and who, whatever his faults, is becoming every day more and more honored in the memory of his grateful and admiring countrymen.

* General Jackson ordered—

1. Every individual entering the city shall report himself at the attorney-general's office, and, on failure, be arrested and held for examination.

Rapid advances of Louisiana.—The history of Louisiana, since she has become a state and been incorporated in the Federal Union, has yet to be written. The uninterrupted prevalence of peace in our country takes away from this chapter those lively features which characterise anterior periods. The records of revolution, of changing dynasties, of deeds of arms and high renown, are not presented here, and, perhaps, to the avidity of general readers, the whole is a hopeless blank. But to those seeking higher views of individual good and national destiny, the onward march of the arts of peace, the extraordinary development of industrial resources, the unmatched augmentation of population and wealth, the erection of an opulent state, with laws, government, and order, in a former French and Spanish province are events worthy of the highest efforts of the historian, replete with interest, and deserving of careful study. The mock heroic, Quixotic chivalry which would brush away, as if the phantom of a dream, the whole of this beautiful prospect by the desolating and withering arm of war, to accomplish ends which the common sense and humanity of mankind have decreed shall be accomplished otherwise, if at all, is not madness only, but the quintessence and refinement of idiocy and malignity, mind depraved and corrupted, or, as the common law writers express it "instigated of the devil"—but we forbear. Let us have war only, in God's name, in that remote and scarcely to be anticipated exigency when our forbearance has been insulted and ceases to be a virtue, and when all that is holy and honorable in us shall rise up in rebellion and bid us—"If you have nature in you bear it not."

In the remaining sheets of our article we shall be confined almost wholly to the examination of the constitutional and legal history of the State, not so much, perhaps, for the advantage of its inhabitants as for those abroad, who, we believe, are not yet clearly informed upon the subject. In fact we have it on the authority of Judge Porter, a distinguished jurist of our sister state, that he has discovered, in Alabama especially, a prevailing opinion that the law of Louisiana is alone the *corpus juris civilis*, and that even the erudite author of *Law Studies* has committed the same error.*

Code Noir, or Black Code.—We have alluded to the old Civil Code

2. None shall be permitted to leave the city or bayou St. John without such a passport, or that of the commodore.

3. No vessel, boat, or craft, shall leave the city or bayou St. John without such a passport or that of the commodore.

4. The lamps in the city to be extinguished at nine o'clock, after which every person found in the streets, or out of his usual place of residence without a pass or the countersign, to be apprehended as a spy and held for examination.

* Commercial Review, Vol I. No. IV. p. 378.

of 1808, and expressed our views upon it. This, with the exception of the Digest of O'Reilly, and the code for the government of the blacks, or Code Noir, was the first codified body of laws in Louisiana. The Black Code was adopted in 1806, and has received frequent amendments almost up to the present day. Most of the harshness of its original character has been taken away, and although in some points still defective and requiring legislative reform, we will venture to say, that in no slave state can there be found a system of law for the government of this class, more fair, equitable and humane, and tenderly regardful of the rights of those whom nature has deeded shall be inferior, subservient and ruled. If sick and disabled, or old, the act of 1806 provides that they shall be maintained by their owners, under a penalty. If well and not amply supported, a justice shall supply the deficiency at the cost of the master. But these are vain laws; for who has ever heard, except, perhaps, a northern abolitionist, of a negro suffering from old age or want? The 16th and 17th sections of the same act provide even for the most minute injuries inflicted upon slaves beyond moderate and reasonable chastisement. Their hours of rest and meals, and their clothing are regulated; Sundays are to be theirs; if old or disabled, they cannot be sold from their families, and the mother cannot be separated from her young children. The Code Noir applies also to free negroes. This class are especially favored. They have served the state on some occasions in time of peril, and have been rewarded. It was only the other day that the present legislature granted a pension to two veterans of this class. Mr. Marigny, who stood up in the State Convention of 1845 for the rights of these people, went back, in memory, to the good old days "when slaves were allowed to assemble and enjoy themselves every Sunday in such games as they pleased;" which was justified by the King's commissioner, by reading to Jean Paul Lanusse, a passage of Sacred History, where it was laid down that St. Madelline, tired and weary from six days' labor, applied to the Lord for the privilege of dancing on Sunday, and he granted it. It would appear that our Town Council now are not quite so accommodating! Mr. Marigny's speech is full of allusions to the public services of the free blacks.*

New Civil Code of 1825.—In 1825 the new Civil Code prepared by order of the Legislature, was enforced in Louisiana. Experience had shown, says the Law Journal, that the old Civil Code had omitted to provide for cases of frequent occurrence, and that some of its provisions, borrowed chiefly from the Spanish law, were not in harmony with the spirit of the time, and required amendment. Messrs. Livingston, Der-

* Reports of Convention, p. 321.

bigny, and Moreau Lislet, were charged with the performance of this duty, and it would certainly have been difficult to select three individuals more competent. This code is still in force, with the amendments to it, and with a vast number of decisions of the court, explaining and applying it. We have read in connection with it, a little book published in 1840, by Mr. Eyma, examining the doctrines of succession by the lights of foreign jurists; and it is understood that a new edition of the Code, with notes by that able lawyer Mr. Mazureau, taken from the experience of a long and distinguished practice at the bar, will soon be presented to the public.* The Civil Code is embraced in a volume of some 600 pages, published in French and English. It is also said to be the intention of the present Legislature to modify and change the Code in many important particulars, in order to suit the state of things under the new Constitution. This is a delicate undertaking, and will be no doubt effected, with a full sense of its responsibility. We are always suspicious of change, though admitting the present Code deficient in many particulars. The Supreme Court declared in *Flower vs. Griffith*, that it does not repeal such parts of the old Code as are not retained in it; and in *Ellis vs. Prevost*, 13 Louisiana Reports, 237, expressed broadly their opinion of the work:—"Our Codes were prepared by lawyers, who mixed with the positive legislation definitions seldom accurate, and points of doctrine always unnecessary: from this circumstance, as well as from the inherent difficulty of the subject, the positive provisions of our Code are often at variance with the theoretical part, which it was intended to elucidate.

The Code of Practice.—The present Code of Practice went into operation in September, 1825, and repeals all former rules of practice. With reference to these former rules, it may be well to observe that they are to be found in the acts of Assembly 1805 and 1813, 2 Martin's Digest, and in the pleadings of the French and Spanish Lawyers, particularly in the *Curia Felipica*, a work in two volumes, by Juan de Hevia Bolanos, an edition of which, printed at Madrid in 1825, is before us. The first volume is divided into five parts, and the second into three, discussing minutely the organization of courts, and conduction of suits. Of the present Code of Practice some complaint is made. It was constructed by the same jurists as the Civil Code. As a system of pleading, it is lamentably deficient, in the opinion of almost all parties; and frequent amendments have been made to it without altogether curing the evil. Composed, says the Law Journal, without sufficient knowledge of the theoretical principles of practice, and with very in-

* We have heard it rumored that Judge Martin and Mr. Greiner have in preparation a new edition of the Code.

adequate acquaintance with the practical difficulties which occur in the administration of the law, it has been the source of much error and embarrassment. There have been several editions of this code, a small volume in itself, published, with copious references to adjudged cases, and a new one seems now to be required by the bar, with such additions and amendments as are required to meet the advance of legislation in the State.

The Roman, French and Spanish law was abolished in Louisiana in 1828. The Supreme Court explained the act in Bell's case, 13, L. R. 198, by declaring that it applied only to the positive, written or Spanish laws of those nations and of this state, which opinion has been somewhat criticised.*

Jurisprudence of Louisiana.—We are naturally led to ask the particular complexion of the two codes we have been discussing, and to what extent they are felt in the infinite variety of cases which arise in the State? How far are the civil and the common law admitted in their elements? Do the codes constitute the whole body of the laws of Louisiana, or how much of them? We shall indulge a few remarks here.—

In former pages it was shown how multifarious are the sources of the laws of Louisiana. Rome, Spain, and France have all contributed from their best repositories to the completion of her system, and the most distinguished minds which have been felt in the jurisprudence of Europe are acknowledged here with scarcely less authority. Any one who has studied the Reports of the Supreme Court of the state, will have discovered this upon almost every page. The celebrated Batture case is most strongly in point, a case which called into action all the energies and developed all the resources of the bar, and was argued and adjudged almost upon the same principles, and in the same manner as it would have been in a court sitting upon the banks of the Tiber, at Madrid, or in Paris. The laws of Louisiana have but little in common with those of England, except so far as enlightened reason and experience may have brought two great systems, the civil and the common law, to similar results. In many respects the principles of correct jurisprudence are universal, and the jealousy which has existed between the common and civil lawyers has little to sustain it that is at all commendable. Both are great and wonderful systems which they cherish; both have upon their sides a venerated antiquity, and the influences of names so high and holy that we dare not approach their presence without some emotions of awe. Both systems have their perfections and their deficiencies, their points of contrast favorable and unfavorable; and

* Louisiana Law Journal, Vol. i. No. 4, p. 150.

it has appeared to us the more we have reflected, that, upon the soil of Louisiana, more than any place else in the whole world, is to be found the spot where the problem of jurisprudence can be solved with most advantage, and where can be elaborated from the joint wisdom and perfection of the common and the civil law, a new and a better system than either, and one which cannot but shed a broad influence upon the whole body of American law. We see this work already going on, and it only needs a careful hand and an enlightened judgment to complete it ultimately by a process so gradual as almost to be unfelt. Even now we have the common law pure and unmixed in the whole of our criminal proceedings, and the trial by jury and the Habeas Corpus, those bulwarks of liberty, have lost nothing by their juxtaposition with Roman Institutes. In the rules of evidence, too, we follow the wise principles of the common law, and commercial jurisprudence in Louisiana is what it is with slight modifications all over the Union and in England, and what it should be all the world over, for, as Lord Mansfield expressed it "amongst all men and in all times the laws of commerce are one and immutable." The work of amalgamation must go on with the elements at work which are presented in the state. We have amongst us able civil lawyers, educated in Europe, and enlightened advocates from all the states of the Union have been crowding in upon us, flattered by a prospect which, though bright, cannot be conceived as ample enough to gratify them all. Minds so differently educated, brought into collision, must develope intermediate results, and the compromises and amalgamations of which we have already spoken. We recollect that the late Mr. Legare, who was scarcely less eminent as a common lawyer than as a profound civilian, entertained views similar to our own. He cherished fondly the idea of harmonizing rival systems which he venerated, dissipating the jealousies of their adherents, and developing for America, out of the great process, a legal polity infinitely higher than that of any other nation on earth. But Mr. Legare fell into an untimely grave, and his great idea, which was to some extent to have been exhibited in his contemplated edition of Heineccius, will continue to influence minds equal to his own. The late Judge Story declared that the jurisprudence of Louisiana presents the most valuable means of improving the science of the common law. "I always read the Louisiana Reports," said Judge Kent, "as fast as they appear, and consider them the most learned and interesting decisions in the United States.*"

* The following is a list of the Statutory Works and Legal Reports now used in the State :

Martin's Reports of the Decisions of the Supreme Court, commencing in 1809—old series..... 12 volumes

Doctrine of Codes.—The experiment of a code of laws has not succeeded so well in Louisiana, we think, as to make it a source of emulation on the part of those states of our Union which have not fallen into the idea. The theory of codification is beautiful enough, but always carries along with it an air of impracticability. It supposes jurisprudence to have arrived or to be able to arrive at perfection, at some one point where the code fixes it. If this be not so, why take the infinite pains to elaborate a code when a slight modification of society, a new phasis, a new institution growing up, a new interest in a few weeks or months, will demand corresponding changes, however slight, yet changes in the law which is to be applied to them. Fix society, and you may fix the law. The metaphysician, John Locke, *abstracted* a constitution for the ancient colony of Carolina, which was to be unchangeable, because perfect; and this whole constitution was so visionary, that hardly a trace of it remained in the colony in twenty years. Away with your ever-changing codes—an absurdity in terms! Our codes have proved themselves to be such. Every session of the Legislature has altered or amended them. Hundreds and hundreds of judicial determinations have been required to explain them, and extensive amendments are even now contemplated. What, then, have we gained? Is our law any clearer and more certain and fixed than it is in other states? Are legal proceedings less costly and less dilatory? Have we done away with the reporters and their ponderous volumes of decisions? None of all this. We have not advanced anything in these particulars, if it be admitted, and we are disposed to admit that we have not fallen anything behind. In the matter of pleading, we have, perhaps, gained something in simplicity of process, for this is far removed from complication with us as anything can be; but then how many judicial decisions, even upon these points! We have no partialities for

Martin's New Series, commencing 1823.....	8 volumes.
Miller's Louisiana Reports, commencing 1830.....	5 "
Curry's " " " 1833.....	14 "
Robinson's " " " 1841.....	11 "
Benjamin and Slidell's Digest of the Decisions of the Supreme Court to 1840.....	1 "
P. J. Deslix's Supplement to do. to date.....	1 "
Christie's Digest of the Supreme Court, published about 1835.....	1 "
Deslix's Analytical Index of all the Decisions of Supreme Court, 1846,	1 "
Harrison's Condensed Reports.....	4 "
Moreau Leslet's Digest of the Statutes of Louisiana, up to 1828.....	2 "
Martin's Digest " " " 1816.....	2 "
Bullard and Curry's " " " 1841.....	1 "
Robinson's Penal Law of Louisiana.....	1 "

64 volumes.

codes from what we have seen of them in this and in other states of the Union; nor, however, any great aversion to their use. If we must have them, let us understand what they are, and not cherish any idea of political perfection, which they clearly do not possess. They are modes of law with advantages and disadvantages; and living in a state where they exist, we would have them improved, as far as possible, just as we would have the law improved in every state even where a code was never thought of, and where, if we lived, we should certainly not be in favor of its introduction.

We have in past sheets exhibited how it happened that codification forced itself upon Louisiana, and how we think it could not well have been otherwise. All the parent systems of her youth were based upon this model, and when she passed into the hands of the United States, it was necessary to know what her laws were, so as to know what they should be under the new aspect of things. This gave rise to the old codes, and the new are but modifications and improvements of them. Mr. Livingston, who played a large part in the compilation, a profound and enlightened jurist, entertained notions of their possible perfection, which almost made him an enthusiast in the cause. His labors we may applaud and admire, though hesitating to agree with him in his conclusions. By act of Assembly of Louisiana in 1820, it was resolved that some person learned in the law, be appointed to prepare for consideration a code of criminal law for the state. Mr. Livingston received the appointment, and on the 21st March, 1822, presented his system of penal law, a volume of eight hundred pages, which was approved and published at the public expense. We say approved, because nothing more was ever done in the matter, and the Code remains now in the State House, and in private libraries never consulted, except in merely speculative matters. Little probability is there for its adoption in the future, since the prejudice in favor of codes is rapidly on the decline in the state. Mr. Livingston made a great book, but one of little practical utility. It consists of five divisions—a Code of Crimes and Punishments, a Code of Procedure, a Code of Evidence, a Code of Reform and Prison Discipline, a Book of Definitions, etc., etc. In the undertaking Mr. Hoffman* has said he has shown himself a philosophical legislator, possessed of all the capabilities of the late Jeremy Bentham, but without any of his objectionable peculiarities, together with all the wisdom of Montesquieu, and the animating and ennobling philanthropy of Beccaria. Mr. Livingston's labors were highly applauded in Europe, and the Emperor Nicholas of Russia thought proper to open a correspondence with him in 1826, on the subject. Eminently success-

* Legal Outlines, 439.

ful in these undertakings, which had placed him at the head of the school of modern reformers and of philosophical digesters or codifiers; he prepared voluntarily, as we presume, a very elaborate and admirable system of penal law for the United States of America, which was presented to the national legislature, and by order of that body printed and published at Washington, in 1828, in one volume, folio. It consists of three codes or books, viz:—of Crimes and Punishments, of Procedure in Criminal Cases, and of Prison Discipline, to which is added a book of definitions of all the technical words used by him in the foregoing Codes.*

Supreme Court of Louisiana.—Before completing our sketch of the

* Hoffman's Legal Study, vol. i, p. 440.

It cannot be doubted, that were codification desirable, America would present a fine field for its exercise. Our laws are at best but in a nascent state, and are thus more susceptible of being thrown into form than they would be at a more advanced period. Several states have been induced to revise and codify their laws, in particular Massachusetts and New York, the last named having innovated with the boldest strokes upon the common law, and struck as it were, at its very heart. This change was in a measure brought about by the labors of a Mr. Sampson of that state, who devoted himself with unsparing zeal and earnestness to the great reform. Mr. Sampson published a volume on the subject in 1826, containing among other things a series of letters upon codification, which passed between himself, Dr. Cooper, and Gov. Wilson, of South Carolina, Charles Watts, Esq., of New Orleans, and Judge Workman, of Louisiana. The attention of South Carolina was called to the subject of codes, in 1827. Mr. Grimke, a most eminent leader of the bar there, published an address in advocacy of the reform, which was followed by an able speech in the Senate of that state, by the Hon. John Lide Wilson, and by an elaborate report on the part of that body, but nothing further was done. Among the law tracts of Lord Bacon, there is one proposing to compile and amend the laws, which it is said, had he undertaken and executed, would have placed him above his rival Coke, as a lawyer. Jeremy Bentham has been looked upon as the great high priest of codification. On the continent of Europe these systems have been extensively admitted from the Code Justinian, of Rome, through the codes civil, penal, commercial and practical of Spain, France, Prussia, Austria, Russia and Sweden. The Code Controversy has been agitated for many years in Europe, and resulted in distinct orders or classes of jurists, in view of it. Mr. Hoffman classes them into the Practical School, the Philosophical School, the Historical and the Legistic, all battling for their various views. We should rather, in view of all the difficulties of the subject, agree with Chancellor Kent, that there is a peculiar and inherent difficulty in the application of the new and dazzling theory of codification to such intricate doctrines which lie wrapped up in principles and refinements remote from the ordinary speculations of mankind; and that no system of law can be rendered free from such imperfections, and the extent of them will necessarily be enlarged and the danger greatly increased, when there have been entire and radical innovations made upon the settled modifications of property, disturbing to their very foundations the usages and analogies of existing institutions

4 Kent Com. 352.

jurisprudence of the State of Louisiana, it will be necessary to indulge some reflections upon its highest judicial tribunal—the supreme court. This was substituted in 1813, in place of the old superior court established in 1805. The superior court consisted of three judges, either one of whom constituted a quorum for business, on which account it is said to have had little influence in the development of the laws of Louisiana. The reports of its decisions, by Judge Martin, are highly esteemed. The Supreme Court of Louisiana was organized in 1813, and had appellate jurisdiction only, and that in no other than civil cases. The new constitution, as we shall see hereafter, has essentially changed its organization. The first three judges of the supreme court were Dominick A. Hall, George Matthews, and Pierre Derbigny. Hall soon resigned, discovering his knowledge of civil law too limited for the office, and his place the year after, 1815, was filled by Judge Martin. These jurists were all eminent in their way, of Martin we have already spoken, Derbigny, it is said, “united with all the learning and science requisite to place him in the first rank of jurists, the sterling integrity and unsullied honor which made him an ornament of the bench; Matthews was a most excellent man, characterized by the sincerest rectitude and love of justice. Judge Derbigny resigned his seat in 1820, in favor of Judge Porter. This latter jurist, during the fourteen years of his administration, attained a most brilliant and enviable reputation. He was learned, comprehensive, deep, powerful in argument and illustration, impartial, clear, and convincing; some of his opinions are referred to as masterly productions.* Henry A. Bullard was appointed in 1834, in place of Judge Porter, resigned; and Henry Carleton, in 1837, in place of Judge Matthews, deceased. In 1839 Messrs. Bullard and Carleton resigned, and were replaced by Hon. P. A. Rost and Geo. Eustis, who also resigned the following year, and G. Strawbridge and A. Morphy were appointed in their stead, the former consenting only to serve temporarily. In 1840 the judges of the Supreme Court were increased to five—Martin, Chief Justice; Associates Bullard, Morphy, Simon, and Garland. In 1846, the re-organization of the court, under the new constitution was effected—Hon. Geo. Eustis, Chief Justice; Associates King, Rost, and Slidell. Two of them are well tried jurists, and we have it on high authority that it is impossible to peruse many of their decisions without admiring the sagacity as well as comprehensive knowledge of our legislation which they display. The other two carry to the bench a high standing acquired in the profession.*

The City of New Orleans.—The charter of this now opulent corporation was granted in 1805. Forty years only have passed in the his-

* See Louisiana Law Journal No. 4, Art. Sup. Court.

tory of New Orleans, and from a population of six thousand souls it has attained already one hundred and fifty thousand, and is pressing onward in a ratio amazing and almost incredible. What New Orleans will be we can only conjecture. It is already great. Standing on the heights of the Alleghany, and looking westward to the Rocky Mountains—tracing the mighty waters of the Ohio, the Missouri, the Mississippi, the Tennessee, and the Arkansas.—Standing on the Gulf coast as the waters of Texas and Mexico roll into it and mingle themselves with those of the north-west and the west, and marking at the moment a city seated as it were in the lap of all these magnificent developments of nature—the fiat of New Orleans has already been sealed, and language confesses its impotence! We sigh not for the mere greatness of a monster, however—the giant's arms and will—the mighty, misshaped, inorganized proportions. We wish for the head, the heart, and the soul, to control our great resources. Who does not mark the changes that are working already. We have a literature growing up; literary men are settling in our midst; our libraries, public and private, are increasing; we have just closed a course of brilliant public lectures by distinguished citizens; we are talking of scientific societies—our common-school system is not surpassed in the country; we have a medical college of high reputation, and a medical journal of brilliant fame; we are to have a university—if the legislature carries out the will of the people—with departments of law, physic, literature, and science; our bar and our pulpits are filled with eminent men; and temples for the worship of the most high God are growing up all around us; we have an efficient police; and Providence appears in the act of crowning us with uninterrupted health—the last but the best boon of all. How little does the world know of New Orleans!*

In 1836 it was thought advisable to divide the city into three separate municipalities by act of assembly, each with distinct municipal powers. These municipalities extend backward six miles to the Lake Pontchartrain, and are divided from each other by streets and lines running from the river to the lake. The first municipality is divided into five wards, the second into four, and the third into four. Each municipality has a recorder and twelve aldermen, except the third, which has but seven aldermen. A mayor and twelve aldermen preside over the whole city, called the general council, who are elected by general ticket from the city at large, four from each municipality. The mayor has a qualified

*For much valuable information in reference to the commerce, population, wealth, and advancement of New Orleans, morally as well as physically, the reader will find it to his advantage to refer to back numbers of our Review, particularly to the articles on New Orleans and Charleston; on the Health of New Orleans; Public Schools of Second Municipality, &c. &c.

veto.* There are different courts established throughout the city for the settlement of small demands for and against citizens in a summary manner, and which are so strikingly defective as to have given great cause of complaint. Some important changes will doubtless be attempted in the city charter so as to accommodate it to the new state of things under the present constitution. The division of the municipalities will however not be touched. It has worked well in the past, and though we have our doubts as to the propriety of divisions and sub-divisions, yet change, perhaps, is worse than these. A single body, as in other cities, would doubtless possess more efficiency, but would be liable to more abuses. As the city enlarges, this subject will present itself more and more to the minds of those intrusted with its administration.

XI.—*The New Constitution of Louisiana.*—Constitutional reform appears now to be the great object of attention throughout the States of our Union. Old principles and forms are to be done away with, and all things to become new. So mutable are human things, and so absurd the position of those who would bind them down to fixed laws! The work is progressing, and time-venerated landmarks are being swept away all around us. These things do not surprise, however much we may frequently have the disposition to regret them. The times are such, at all events, as to demand the highest efforts of patriotism on the part of the best citizens of the republic. We must repress the ardor which, in seeking for liberty and social advancement, seeks it in change where experience has taught us it is not always to be found. As God judges us we should be watchful over the institutions of our great country, and touch them only at any point with fear and trembling, and with that prayerfulness of heart which looks for wisdom beyond all human foresight. With such a disposition we may enter the temple of constitutional law and re-arrange, modify, amend, and embellish its finely ordered proportions without one desecrating touch, but with infinite beautifying and ennobling skill. In making a constitution for a people we are not establishing mere laws for their government; but going behind even this high attribute, we are making the law maker itself, and establishing that which is to control the whole body of jurisprudence, and fix a standard to which the polity and the progress of a nation are to be accommodated. With any other view of a constitution we should deem it a scourge rather than a blessing, a delusive beacon, subject to every capricious wind, and adapting itself with easy pliancy to ephemeral influences, however contrary to long established and en-

* We would refer the general reader to a pamphlet edition, or digest of the acts of the Legislature, now in force, constituting the city charter of New Orleans, published within a few days past by T. W. Collens & A. Morel. It will save a mass of labor to the enquirer, and it is an admirable arrangement of the existing law.

lightened experience. If a constitution is to have the flexibility and the instability of a mere law, why then let us call it by its real name, and have done with a distinction which at once becomes absurd. We fear that this understanding of a constitution is but too common in many parts of our country, and that its baleful influences are yet to be felt. It has not been so in the past in Louisiana, but our new constitution which we have so much labored to procure, does not, we apprehend, excite that veneration and regard among us which such an instrument deserves.

Within a very short period the constitutions of several of our sister states have been essentially changed. New Jersey, Texas, and Missouri have passed under a new and in many respects a better order of things. New York, after years of struggling, has called a convention for a similar purpose; and the state of things in Maryland and Virginia evinces a determination, not long to be repressed, to follow in the same direction. Louisiana passed through more than a third of a century under her first constitution, until, indeed, its deficiencies had become so glaring that no one, however conservative in principles, questioned the propriety of a change, though much diversity of sentiment may have prevailed as to what the change should be. The State exhibited for some time a hesitation to go into convention on the subject to be sure, but this without relation to the question of change, but to the question of existing compromises and jealousies, so natural between the old and the new régime of a state, and between the city and the country influences. But the strength of popular sentiment was sufficient to break down all of this, and the Legislature on the 30th January, 1841, passed "An act for taking the sense of the good people of the State on the expediency and necessity of calling a convention to amend the constitution of 1812, in the particulars to wit :"

1. As to the right of suffrage.
2. The establishment of a better system of representation.
3. The election of governor by popular vote.
4. The re-organization of the supreme court.

This sense of the people being taken at the ballot box, at the next general election, was unequivocally pronounced in favor of a convention, and also equally unequivocally at the election following. This matter determined, the Legislature on the 18th March 1844, passed an "act for calling a convention for the purpose of re-adopting, amending, or changing the constitution of the State." A title much more extensive than that of the original act of 1841. The members of this body to be elected from the senatorial districts and parishes; to be in number seventy-seven; to receive the pay of an ordinary legislature, and to meet at Jackson, East Feliciana, on the first Monday of August, 1844. The convention was

elected, and met at the place designated, but finding it most difficult to proceed without the facilities at hand of procuring important information in relation to their trust, adjourned over to the following January, at New Orleans, where, entering upon the subject before them in all earnestness, for over four months, they prepared and adopted a constitution for the State, which, being submitted to the people at the ensuing general election, was received by an overwhelming vote, and became the supreme law. Under this constitution the first legislative body has assembled, and is engaged in organizing all the details of government.

In contrasting the old and the new constitutions it is impossible not to feel how largely the latter in its leading principles has improved upon the earlier law. The old constitution was, however, by no means a more than usually defective instrument. We will venture the assertion that it was superior to those of many other states of the confederacy. Mr. Preston the late attorney-general, an able lawyer and by no means a very strong conservative, declared it to be a document venerable for its age, and requiring change only in three or four points. "Let the constitution alone," said he, "wherever no change is required, and only let it be amended in the particulars where amendments are required." Mr. Conrad was rejoiced at the language of Mr. Preston, as it implied that a sparing hand would be used in amending. "That the old constitution had been made at a most auspicious period; that its framers met with the harmony of a band of brothers, and were not actuated by the violence and bitterness of party strife, but were influenced by the same spirit of concession, the same lofty patriotism, that animated the framers of the federal constitution." Mr. Downs would have the language of the former instrument preserved. "It was consecrated by the associations of thirty years, we should not change a word or letter where there is not some urgent reasons for doing so." It was with feelings such as these on the part of the leaders of the convention, that they entered upon their labors, and if, in any of the details of the system, they seem to have departed at all from their commendable caution, the fact can only be attributed to those influences which are felt in all deliberative assemblies.

We shall pass in review a few of the more prominent features in our new law, contrasting them with the former, and exhibiting the causes which called into being many of the original provisions that we find. And first of the

Executive Department.—The changes here have been chiefly in adding a new officer—lieutenant-governor, and constituting him ex-officio president of the senate. The governor was required to possess a high property qualification in the old law, but in the new one this is altogether unnecessary, and that officer, as every other officer in the state, may be elected and serve though without a foot of land or its equivalent in

money. This is at least the theory. The governor has the veto power; he must have resided in the state for fifteen years before his election. Great and strenuous exertions were made in the convention to apply the Native American qualification, and thus exclude from this high office whoever may have had the misfortune not to have been born amongst us. This, we think, is carrying proscription entirely too far, and we rather agree in the main with those eloquent gentlemen who battled against the attempted innovation, and so triumphantly demonstrated its unjust and injurious tendencies. Amongst these most conspicuously stood Mr. Soulé, the gifted advocate, and Mr. Marigny. These gentlemen might have been considered as the advocates of the French interests of Louisiana, and standing as it were intermediate between that order of things which belonged to the state in early days, and the new one which has been coming upon her. We can appreciate the delicacy of their position in the convention during such a discussion as this, and admire the skill, ability, and patriotism with which they conducted themselves.

"Is it because the times are changed," said Mr. Soulé, "that we have to seek new subjects to immolate upon the altars of prejudice. Be it so. Attempt to enforce the spirit of persecution. The times are not far off when, yielding this question, it will not only embrace the limits of the state, but will gradually come down to districts then to parishes, then to towns, and finally we shall be told that we must choose our governor or representatives from such and such a plantation." The case is an extreme one, but we heartily agree with Mr. Soulé that proscription once commenced will know no limits. Mr. Marigny made a long speech full of historical reminiscences, sarcasms, good humor, and admirably good sense. He appeared to have thrown himself into the subject with an enthusiasm which none but a Frenchman could have felt. "Sir," said he, to Mr. Benjamin, "contrary to all parliamentary usage, you call upon the other distinguished member from New Orleans, Mr. Soulé, and ask him, sir, suppose you had been placed at the head of an army to meet in deadly combat your own countrymen, could you, would you have done it. Sir, I tell you, that you have inflicted upon him unjust provocation, and give you distinctly to understand that I take up the glove on his behalf, and, sir, I trust that you will not complain of my not being a native of the country, since I descend from those ancient warriors who conquered the country, and here represent six generations of Louisianians. Fortunately, for me, all your fine quotations are lost upon me. I have never read any of those works which are supposed necessary to make a logical man. But, Mr. President, I am one of those, who, looking at things as they are, feel myself capable of meeting the emergency of the hour, and of according

my political acts to the political wants of my country. But, sir, I ask you by what right do you expect to disfranchise in 1845, those who have rights guaranteed them in 1812. Sir, I tell you, I, Bernard Marigny tell you, that you are, after all, nothing but the servants of the people, nothing more, nothing less; presume upon your authority, and they will soon bring you to a just appreciation of their power over you, and it would not at all surprise me, if they were to obstinately persist at the very next election in selecting a governor from the very men whom you are now so anxious to exclude. The laws of the land recognize no distinction between one class of citizens and another. Is there any principle of free government, any principle of republicanism, to sanction such a pretension. They say that a naturalized citizen is not to be entrusted with the powers we confer upon our governor. What, sir, is the power of that governor compared with the power *we* are now administering?" The Native American exclusiveness was thrown out of the convention, and we consider it dead in Louisiana!

The Legislative Department.—Hereafter, the elections all over the state are to be completed in one day, a provision of much wisdom when it is considered how largely it shuts the door against all frauds. The times of election too, changed from the first Monday in June to the first Monday of November, evidences a disposition to protect the ballot box from the influences of those who are content to make Louisiana only a depot for their merchandise and an office for their trade during a part of the year, and have their *homes* in every other part of the United States. These men must now brave the "baptism of yellow fever,"* or they can never be considered citizens of Louisiana, enjoying the plenitude of the elective franchise. It cannot be doubted that this new arrangement will do much towards fixing a population with local attachments and sympathies, in place of the incongruous masses which have been only crowding here for a short season. The voter must have resided two consecutive years in the state, without an absence at one time of over ninety days, unless leaving a house or an office in his occupation; with this qualification every white man may vote. The Legislature is to meet biennially, and not to sit longer than sixty days; the policy of which there can be no question about. Long parliaments have always been wicked ones. The Representative must have resided three years in the state, and the Senator ten years. The new distribution of members of the two houses among the different sections of the state, was the most difficult and exciting question brought before the Convention, since all the prejudices of the city and the country in opposition to each other, were brought into full play. The increasing and

* Eustis—Convention Proceedings.

controlling power of the city seemed to have occasioned great alarm, and constitutional checks were deemed absolutely necessary. Indeed, if there was any one point upon which the Convention seemed likely to split and frustrate the whole idea of a new Constitution, it was this very point of arranging representation. The discussions upon it are worthy of the most careful study, affording as they do, a vast fund of information; and we may hope that the compromise which was at last effected, will be maintained with scrupulous exactness. The new Constitution of Louisiana, says the Democratic Review for April, discovers more political insight and a more absolute reliance upon the principle upon which popular governments are based, than appears in the fundamental laws of any other state in the Union.

The Judiciary.—This system was lamentably deficient under the old law, and altogether inadequate to the purposes of justice. The abuses were too palpable to escape the observation of any one, and like a rank weed, litigation was thriving with a spontaneous as well as stimulated growth. The intricacies of such an establishment as we have had, and the sickening delays and injuries! Henceforward the Legislature can create no other judicial forums than a Supreme and District Courts and Justices of the Peace, and these it is obligated to create. The Supreme Court has been already organized, as we have seen, and its appellate jurisdiction enlarged so as to cover, in addition to its former field, all cases in which the constitutionality of a tax toll or impost shall be in contestation, whatever may be the amount thereof, and likewise to all fines, forfeitures and penalties imposed by municipal corporations, and in criminal cases on questions of law where the punishment of death or hard labor is inflicted.* This court has no original jurisdiction. The

* We have a penitentiary establishment at Baton Rouge, and our penal laws graduate crimes by their periods of service at imprisonment and hard labor. The following offences are still capital with us and punished with death:—murder, arson, duelling with death, poisoning, shooting or stabbing with intent to murder, burglary with weapons, and instigating slaves to insurrection. These are but nominal, however, and death is but seldom inflicted, except upon the murderer, which appears to us the only natural and just punishment, notwithstanding the insane fanaticism of some. The penitentiary is in a prosperous condition, and well patronised. A great variety of mechanic arts are conducted within it, and industrial processes. The products are thrown into the market and disposed of to the best advantage. The principle is correct. The criminal should toil and support himself. He should even do more were it possible; and the objection of bringing convict labor in competition with honest labor appears to us too absurd to consider for a single moment. Every dollar that is made within the walls of Baton Rouge is a clear gain to the state, though a few gentlemen outside might lose a little. The penitentiary is leased out by the government, and the lessees have expended the sum of seventeen thousand dollars upon it, in cotton, and woollen, and bagging and rope machinery, and improvements.

District Courts are in progress of creation by the Legislature; they are substituted for the old Probate and Parish Courts, which have with unbridled latitude, for long years, wrung tears from the eyes of widows and orphans—a plan of cruel wrong, liveried with the angel robes of justice. The Commercial, the Criminal, and the City Courts, the Courts of Errors and Appeals, too, are swallowed up and lost. We have no regrets for them. We mark the advent of a better day for those seeking right or averting wrong in Louisiana. “The original jurisdiction of the District Courts,” says a well executed pamphlet edition of the Constitution, prepared with comments, by Mr. Glenn,* “shall extend to all cases where the amount in dispute exceeds fifty dollars, exclusive of interest; previously it was one hundred: and in all criminal cases, and in all matters connected with successions, their jurisdiction shall be unlimited. This will throw into the District Courts an immense mass of business. Suitors who have a claim over fifty dollars will naturally prefer an untaxed suit in the District Court rather than hazard the costs, trouble and delay, of an appeal to that court from a Justice of the Peace. The decision of a judge of a District Court is final in all sums between fifty and three hundred dollars. Justices of Peace, Sheriffs and Clerks of courts elected by the people. Taken altogether, it has been said on high authority, that the judiciary of Louisiana is more simple and at the same time more efficiently organized than that of any other state of the Union.†

GENERAL PROVISIONS.

1. *Corporations and State Indebtedness.*—Unless the ingenuity of construction should gain upon the plain letter of the constitution, the ruinous system of pledging public faith for works more properly belonging to individual enterprise, can never get foothold again in Louisiana. We would have the government do as little as possible beyond governing well. It is worthy of remark, if it be true what Mr. Calhoun stated at Memphis last winter, that, as a proprietor of public works, the general government had expended seventeen millions of dollars for what would not bring in the market more than half a million. How much more likely to be true in the case of state governments. The public crib will always be pillaged, and we have oftentimes thought, in perfect despair of doing well, that we had better have no crib at all, or at least as small a one as possible. The Legislature are now prohibited from pledging the state faith in aid of any private persons, corpo-

* The new Constitution of the State of Louisiana, with a Comparative View of the old and new Constitutions. By S. F. GLENN. New Orleans: J. C. Morgan, 1845.

† Democratic Review, Vol. xviii, No. 94, p. 246.

rations or bodies politic, except so far as issuing bonds against outstanding liabilities. The following provisions we give in full:—

The aggregate amount of debts hereafter contracted by the legislature shall never exceed the sum of one hundred thousand dollars, except in case of war, to repel invasions or suppress insurrections, unless the same be authorised by some law, for some single object or work to be distinctly specified therein, which law shall provide ways and means by taxation for the payment of running interest during the whole time for which said debt shall be contracted, and for the full and punctual discharge at maturity of the capital borrowed, and said law shall be irrevocable until principle and interest are fully paid and discharged, and shall not be put into execution until after its enactment by the first legislature returned by a general election after its passage.

No corporate body shall hereafter be created, renewed, or extended, with banking or discounting privileges.

Corporations shall not be created in this state by special laws, except for political or municipal purposes, but the legislature shall provide by general laws for the organization of all other corporations, except corporations with banking or discounting privileges, the creation of which is prohibited.

From and after the first of January, 1890, the legislature shall have the power to revoke the charter of all corporations whose charter shall not have expired previous to that time, and no corporations hereafter to be created shall ever endure for a longer term than twenty-five years, except those which are political or municipal.

The general assembly shall never grant any exclusive privilege or monopoly for a longer period than twenty years.

2. *Divorce*.—No divorce shall be granted by the legislature; but this says nothing against the principle. Divorces are of every-day occurrence in the courts, holding out in this manner a premium to vice. We have some conscience about the catholic sacrament of marriage, and it really does seem that all legal intermeddling with it is attended with infinite mischief. A single state in our confederacy has gone on more than half a century without dissolving directly or indirectly the bonds of a single matrimonial compact. Either these people of South Carolina are very miserable, or all the rest of us are very wrong.

3. *Duelling*.—This monster practice, consecrated by all the best recollections of Vandalism, is meeting at last in conflict with a sturdy common sense which is armed to the teeth to crush it. Well, laws are vain, and can do nothing in these particulars if morals be not right. The law however is a mere reflection of the influences which are behind it, and it speaks much for these influences when the people, speaking in their highest capacity, have stamped the duellist as a felon, and covered him with unmitigated odium. The clause in the constitution is stringent.—

Any citizen of this state who shall, after the adoption of this constitution, fight a duel with deadly weapons with a citizen of this state, or send or accept a challenge to fight a duel with deadly weapons either within the state or out of it, with a citizen of this state, or who shall act as a second, or knowingly aid or assist in any

manner those thus offending, shall be deprived of holding any office of trust or profit, and of enjoying the right of suffrage under this constitution.

This clause is not a little surprising when it is reflected that in no other state has duelling been in greater vogue than here. We would have supposed a bitter conflict in the convention before its adoption, but nothing of the kind occurred. There was a general admission of its wisdom, and no one was hardly called upon to express an opinion. Mr. Garcia did indeed say, with what we conceive mistaken warmth, "It seems to me that there is a conspiracy against the chivalric portion of our population. I am apprehensive that, without knowing it, you are the dupes of some ambitious persons whose craven spirits shrink from any responsibility, and who are anxious to exclude from a civil and political career honorable men whom they fear to meet on equal grounds. They will insult them—they will calumniate them—they will persecute them at their leisure in the public papers, and will force them to crouch beneath those insults, or otherwise lose their privileges of citizenship. And I will ask you if you think that the youth of the country are to be restrained by a provision which places the murderer, the assassin, above the brave and honorable man."

The provision does not go far enough, for its restrictions are most severely incumbent upon citizens, and exposes them, as Mr. Ratcliff remarked, to the insults of strangers, and deprives them of all means of redress under the severest penalties. Mr. Chinn added that it was notorious that in Virginia duels were quite as common as in Louisiana. A provision was adopted similar to the section which has passed this body. It had no effect. At length it was resolved to apply the test of an oath. This was done, but the constitutional question was raised as to whether this could be done. The courts decided the question in the affirmative, and duelling from that moment ceased. I have no doubt that similar results in Louisiana will follow the adoption of similar means.*

4. *Seat of Government.*—From the days of Bienville, with little interruption, until this time, New Orleans has been the capital of the state. For some years there has been evinced on the part of the country great opposition to its remaining so, and equal determination in the city to maintain its ground. In 1830 a removal was attempted, and Donaldsonville fixed upon as a proper site. Buildings were put up at large expense, and the next session of the Assembly convened in the town. We quote from Mr. Marigny's facetious speech in the Convention, which could not but have excited much amusement, the result of this manœuvre:—"Having promised the country members," said he,

* Debates in Convention of Louisiana, p. p. 916, 872.

"to remove the seat of government from New Orleans to the country, some years since, to give it a trial, we consented to remove the session of the legislature to Donaldsonville—that was the decision, and the location was made there. Thanks to the delightful dreamers of those days for the future prosperity of Louisiana, said the contractor; for he got \$50,000 for the job of putting up the State House. But what was the end of this scheme? The members of the Legislature had scarcely assembled ere they began to complain, and many, even it is said, cried with bitterness and mortification at being cooped up in so small a place. Every steamboat that landed was boarded by the Legislature almost in a body to know the news from town. Each day was to them an insupportable burden. Each night was fraught with ugly dreams, and each succeeding morning they would say, I would not pass another such a night for all the world. At last they all had a dream. It seems one and all were taken charge of by Queen Mab, and she clearly showed them that the walls of the new State House were about to fall over their heads and crush them into mummies. Oh, what a catastrophe! Horrible indeed! We could not convince them to the contrary, and back they came to New Orleans."* The Convention, after some debate, inserted the following clause in the Constitution:—

The General Assembly which shall meet after the first election of Representatives, shall, within the first month after the commencement of the session, designate and fix the seat of government at some place not less than sixty miles from the city of New Orleans by the nearest traveling route, and if on the Mississippi river, by the meanders of the same; and when so fixed, it shall not be removed without the consent of four-fifths of the members of both houses of the General Assembly. The sessions shall be held in New Orleans until the end of the year 1848.

The Legislature has met, and after a struggle, fixed the new capital at Baton Rouge, a town beautifully situated on the Mississippi, some one hundred and fifty miles from New Orleans. A place more advantageously and pleasantly located in every respect could not be found. It contains already the United States Barracks and the State Penitentiary. Ample appropriations are all that is required now to construct edifices adapted to the purposes of the state. We hope that they will be immediately and liberally made. It was not to be expected that New Orleans could have remained the seat of government. The strong prejudices of the smaller towns and of the country in nearly all the other states, have wrested away from the metropolis its privileges in this particular. There have been but few exceptions indeed to this rule. We shall not argue the question of propriety, or indeed pronounce any decided opinion upon it here. The fact is sufficient for us. The metropolis, it is supposed, will oppress everything out of itself.

* Proceedings of the Convention, p. 325.

A great city, like a great giant, excites terror all around. The influence of the populace, of the mob, must be guarded against. Lobby influences are too strong to be resisted. Intimidation is too easily effected upon the weak nerves of members. Good dinners, fetes and soirees change votes in twenty-four hours irresistibly. The city will rule if it entertains the rulers. It will attract them off from their duties into pleasure and dissipation, and by its fine shows, its gala days and its fascinations, prolong sessions almost indefinitely, and work out, no knowing how much, of the long public purse. The city, too, is generally far from being central. These are the arguments on one side. On the other we are pointed to the dreary dismal country town, with its miserable inns, its ennui, its sedate and unambitious press, its total want of all the great sources of information—libraries, public and private, reading rooms, files of old journals, practical business men, and we are directed to the city where all of these exist in the highest perfection, where taste and letters are cultivated, and all the finer influences which form and adorn society; the city which in modern improved traveling can be reached from the largest distance almost as soon as a neighbor's house could formerly be, and where almost every one possessed of any means feels it a kind of religious duty, if not a business, to make a pilgrimage at least once a year. But we are growing tedious with this matter.

5. *University of Louisiana.*—The Convention, after providing for a superintendent of public instruction, for public schools and academies, proceeded to enact.

An University shall be established in the city of New Orleans. It shall be composed of four faculties, to wit: one of Law, one of Medicine, one of the Natural Sciences, and one of Letters.

This is very well and very commendable. Nothing could reflect more honor upon the authors; but the next clause is objectionable.

The Legislature shall be under no obligation to contribute to the establishment or support of said University by appropriations—

Why not? If the Legislature should be under obligations to do anything in the world, it should be to do this very thing. They are not in the condition of the man who said "Sir, my constituents ask for no appropriations, they scorn to be enlightened." Pledge the public faith as much as you please, involve the state just as deeply as you please in debt, so that the object be judicious public instruction.—You have an equivalent for all you spend, and you raise up men capable of extricating the state from all its burdens, and elevating her to infinite honor. The Legislature is obligated to support the University, and should do it. Who else will do it? Who else can? It is not a matter wholly for private enterprise, though private enterprise may largely

aid it. Everywhere else in the Union it has been made a matter of public concern. Many of the states lavish annually enormous sums upon their universities and colleges, and they do right, just as a father would do right in expending his income upon the education of his children. Let the Legislature consider themselves obligated. Let them be liberal, if discreet, with this college, liberal with its endowments and its patronage, and they will never be called to account for a malfeasance in office. They will stand like the Roman in the presence of his enemies, but in sight of the hill where he had saved Rome. They will stand like Pericles silencing his accusers by pointing around to the magnificence and the glory with which he had embellished Athens. Like the noble matron pointing to her children, they can then turn to the youth educated by their munificence, and glory in the best and most precious jewels of the state! We shall have an article in our next number on the organization of this university,* and shall conclude at present by introducing a few remarks of Messrs. Eustis and Benjamin upon it, which are highly creditable to their heads and hearts.

Mr. Eustis said—

I may be told that there are self-educated men. I admit there are men who will learn everything, and make themselves distinguished. There are many on this floor. But, how many have come out of the mass after thirty years, and after expending a million and a half of dollars for the purpose of education in this State? Are we to rely upon that source alone for men to whom we may with safety commit the destinies of the State? Where are we to get our judges, and legislators? Unless particular individuals are endowed with the highest order of intellect, we cannot expect that a mere common school education will suffice. There are those who will shine conspicuous despite of circumstances. These are exceptions. But, for the mass of mankind, you must provide adequate means of acquiring knowledge.

What is our position at present—we have no means of educating a lawyer or architect? Well, you permit the money of the State to be sent abroad for the education of your children? How much money? No less a sum than two hundred thousand dollars per annum! But that is not all—you exile your children. You may have strangers to administer your laws, if not in birth perhaps in feeling. Intellect is power. Men of intelligence come from where they may, most govern. Let us put a stop to the crying evils which must result from the want of adequate means to

* We are to hope that the present legislature will not adjourn without taking steps for the organization of this University, so that there may be the least delay possible in completing so admirable a work. Great wisdom will be required in the ordering of details. The past history of the State presents a melancholy picture of academies and colleges chartered and endowed, and yet falling entirely short of anything that might have been expected from them. The strength of the State has been diffused rather than concentrated. A single efficient institution is preferable to a score of such as we have had. The present State House will supply a temporary building.

confer a home education. Let us at least plant the tree of knowledge.—We ask you for nothing more than to protect it from the ruthless hand of violence. Unless you sanction some such plan as is suggested in the section before you, every system you may devise will be but a mockery. We ask you for no money—no lands—we only ask you for the means of establishing a proper system of education. We ask you for an institution where the lawyer, the physician, and the architect may be perfected. New Orleans is the centre of an empire. Go to our public lectures, and you will find them thronged. I have been repeatedly called upon by the young men of the city to deliver lectures. The coffee houses are ceasing to be the haunts of dissipation and *ennui*. All this avidity for knowledge has been excited without the fostering hand of the government. One word more and I am done. Look at the institutions that have stood the test of time—Harvard and Yale! Both these institutions are recognised in the constitutions of their respective States. This is a worthy example for the wisdom of Louisiana. Let us imitate it, and the fruits will be many.

Mr. Benjamin said—

That one moment's reflection would convince the delegate from St. Landry, Mr. Lewis, that an university of the character contemplated could be established no where out of the city of New Orleans. Nothing more was asked than a perpetual charter. It was contemplated that the institution should be composed of four faculties—a faculty of medicine, of law, of arts, and of letters. It would be necessary to begin on a small scale, for the funds that may be raised otherwise would not suffice. Eminent men in the several professions in the city would be invited in their spare hours to deliver lectures. It would be impossible to provide the necessary professors out of the city, without a very heavy expense, which the immediate resources of the institution could not afford. Lectures would be delivered by men of science—members of the bar and physicians, who would take a spare moment from their professional pursuits; and as the city combined the greatest facilities to obtain the services of such persons, it was manifest, that to say that the institution should not be established in the city, was equivalent to saying that it should not be established at all for there were no adequate means at hand to establish it, and it could not be established in any other way than by the plan proposed. The State was yet too young to endow such an institution. At the North, these institutions were promoted by the legacies of wealthy men. We have not the same resources, and would have to rely upon useful and valuable members of the different professions, to contribute their energies and the faculties with which God has endowed them in furtherance of the undertaking. Men who are eminent as physicians and lawyers, and as votaries of science. He hoped no sectional jealousy would be excited upon this subject. If it be desired to establish this institution in the city, it is chiefly because it is impracticable to locate it in the country without immense resources—such resources as neither the State nor individuals can hope to contribute at the present time.

There remains little else to be remarked upon the Constitution. Taken as a whole, we have the highest regard for it. Most of its particulars are admirable. We could raise an objection to its length, to its particularity and approach to objects of mere legislation, but these errors are so common now that no one thinks of animadversion. Our constitutions now are going far into details. The model for such in-

struments in our mind has always been otherwise. We have loved the idea of a few great and immutable principles incorporated, leaving all the rest to time. But this seems unattainable according to general understanding, and we must yield. One reflection presents itself, which is worthy of being noted, however—the more you crowd into a constitution, the more chances of its weakness, and the less likelihood of its endurance. In the details of the instrument before us, there have been supposed to be defects. Its oath of allegiance has given great annoyance and no little labor to those who are ever ready to ply the telescope in the hope of discovering spots upon the sun. They are welcome to such employment. The oath of allegiance upon principle and in effect is sufficient, though to prevent all carping, it had as well perhaps been more explicit. We say nothing on the doubt which has been raised as to the extent to which the offices under the old Constitution have been abolished by the new one. The judiciary may yet be called upon to pass upon these matters and others of like nature growing out of the new law; a thing common enough and not unnatural. We do not complain of it either, for who with more propriety could be called upon to explain the laws than the law makers, *i. e.* the lawyers!

Our sketch is ended, and wearied at last as well as the reader, we dismiss it without much regret. The subject has been to us most interesting, and we have pursued it with enthusiasm. State love is a noble feeling, which we should all inculcate and cherish. There is no love which does not begin at the fireside—in the homestead where we live and where we are surrounded by our friends and our associates, and where memory has hallowed occasions and scenes long gone by. The existence and preservation of our glorious confederacy depends more than all else upon a strong state feeling and pride, and love, which, prevailing in each of its parts, protects them from all danger of merging in and being lost in the mass; but keeps them like the beautiful orbs in heaven, revolving around their centre, distinct and individual; yet parts, and necessary parts, of one great and wonderful system.

D.

ART. II.—TRUE REMEDY FOR THE EMBARRASMENTS OF COTTON PLANTERS AT THE SOUTH AND SOUTH-WEST.

THE interest of these sections are in a manner identical, their crops and mode of cultivation being similar, the only difference to be discerned is found in the greater productiveness at the present time, of the soil throughout the latter. The agricultural prospects and the doings of the planter will be considered more in reference to the latter.

Good men, and true, have devoted much attention to the agriculture of this country; they have given good and wise precepts; they have striven to change the present unpleasant state of affairs; and most assuredly have their labors been effectual. There may not be any very marked change, but there has been much improvement in the mode of managing an estate, which will in due time bear an abundant harvest. That the best is not done, that the precepts have not had full consideration, any one may see for himself; but no reasonable man could expect to change a routine of almost half a century's standing, in a few months: to change the habits of a people requires almost an age: to see the change has certainly began, is sufficient; and to show it, witness the sales of hay, pork, beef, mutton, wool, fruit, etc., etc., from Mississippi, within the past eighteen months. The present price of cotton is too low for the cotton planter, he cannot afford to make cotton when not yielding over from \$100 to \$140 per hand. It matters not how this state of agricultural depression was brought about; whether it be caused by the tariff, whether by the banks loaning freely and thus causing increased product, or how; the important matter is not to quarrel about who, or what caused, but like working-men apply the means to effect a change. Can a change be effected? What means should be applied? and when should they be applied? are questions open for investigation.

A writer in the third number of the *Commercial Review*, answers them at length; whether satisfactory to the people or not, it is not necessary to say. To strike at the root of the evil, it would be well to examine the whole matter, as the lawyer would his case, or the physician his patient, not content to rely on a few statements.

The planter is regretting his peculiar hard lot; his negroes are worked full hours, and he receives a bare pittance of the returns made to the manufacturer or to the sugar planter: he plants more cotton, works his negroes harder, drives all day and part of the night, and yet he complains. Like the *nostrum vender*, he will not be convinced that calomel is killing his patient, but he gives larger and larger doses. What is the result? He is compelled to pay doctors larger bills for attention on the sick, caused by over work: he has to pay to Kentucky

larger prices for mules, and horses, and hemp, the price being increased by the increased demand: he wants more meat and more bread, owing to his not having time to make them: he has to make a greater show of wealth, as his poor neighbors who make less cotton and more meat and bread, and clothing, and colts, and stock generally, are beginning to buy conveyances for their families to ride to church in: he turns off an overseer every few months, and finally laments, until he is weary, over his fate.

Should such a man be advised to hold on to his crop for better prices? Apply to the Legislature to give premiums? Make less cotton? Build up manufactories? This has been done again and again. What then counsel him to do? Examine the case well, and let a planter who has long watched the course of events, act as a kind of mentor, whilst you are making an examination. Do you not see that on this plantation the negroes are overworked, although they are fed high: you see no small children; you hear not the cheerful song nor the laugh that comes from the happy negro. You will also please to observe the beautiful quality of the hay, put up in handsome square bales; these bales are from Ohio, and good hay it is. Do you mark the sacks that are lying there, they once contained corn that you will perceive was from a flatboat, if you will lift a sack to your nose. Here, sir, is as neat an axe helve as was ever made in Connecticut; good bridles and good collars, good backbands, all, they cost a mere trifle. You will find excellent Lowell and good linsey, it being cheaper to buy than to make; and besides, there is nothing saved even by working at this kind of work on wet days. You will find yonder a fine, sleek, well-conditioned horse, he belongs to the overseer; and near at hand you see the rough outside of a very good carriage horse, corn is too scarce to feed him with. Ah! and there goes the planter; he has just returned from a political stump harrangue, where the planters have been discussing the merits of the candidates for the next presidency. Shall we visit the house, and see the china and the silver, and the silk and lace, and extra servants? No, no! we will not enter into the sanctum of the injured one—he is an injured man. The merchant and the manufacturer have conspired to put him down. England determines to take his slaves from him: he is desponding, and cannot for the soul of him go to work like the manufacturer, or the merchant, but expects the “good old times” to return again. Have you seen enough? Can you see what is first requisite?

Let the planter set to work himself, and turn off his overseer; let him make his bread, his meat, raise a few colts, and hay to feed them on; let him increase the quantity of corn and forage until he can spare a little; let him take the interest in his own business that the merchant or

manufacturer must who expects success; let him learn his sons that idleness is the "road to ruin;" let him teach his daughters that they are not dolls or milliner girls, but that they are the future makers or marrers of this beautiful republic; let him ever remember the old saying, "the master's footsteps are manure to his land," and we think he will have less cause to repine, and more cause to think that his "lot is cast in happy places."

Good, very good, sir; you have now struck at the root of the evil, and it is to be hoped that you will enter more minutely into the particulars how all these matters should be effected.

The questions in the latter part of the second paragraph are answered in a summary manner above, the answers follow as evidently as cause precedes its effect; unless there was a remedy there would be folly in talking of it. If the remedy be not found in diminishing expenses, practising frugality and industry, and thus of course diminishing the amount of cotton for sale, then there is no use to search for a remedy. And if these things can and ought to be done, then promptness should be the watchword. The merchant who controls his millions, is found attending to his business; true, he has his clerks and porters, but he is not the less diligent. The lawyer is busy with his "books" and "papers" all day and late at night. The physician cannot spare the time from his "prescriptions" and his "visits." The manufacturer, ever working "short hours," has to examine into the "state of trade," else he will lose his "market." Why then should the planter above all others be permitted to pass his days and nights in listless idleness. Has he exemption from "by the sweat of thy face, thou shalt earn thy daily bread;" or, "he that will not work, neither shall he eat." There is one thing certain, the planters of the South and South-west must give up sloth and idleness; they must take the lesson taught by Hercules to the wagoner,—*"put your shoulders to the wheel."* Besides this they must pursue a more mixed course of husbandry, they have relied long enough on the one thing, it is high time another course was pursued.

That manufactories would benefit this portion of the United States there is not a shadow of doubt; that Legislative aid, directed to developing the latent facilities of the country would, is evidently plain. That making less cotton would enhance the price is highly reasonable. But were all these done, and the present practice pursued, the improvement would be delusive. The redress to be effectual must commence at home—the improvement, to be valid and permanent, must start at the planter's own home.

ART. III.—ANALYTICAL INDEX OF THE WHOLE OF THE PUBLIC DOCUMENTS RELATIVE TO LOUISIANA, DEPOSITED IN THE ARCHIVES OF THE DEPARTMENT—"DE LA MARINE ET DES COLONIES ET PARIS."—CONTINUED.

PORTFOLIO No. 4.

228th—1721, 5th Sept.—By-laws by the West India Company for the government of Louisiana, approved by the king.

229th—1721, 2d Sept.—Rules by the same company to encourage the culture of tobacco, rice, and the introduction and education of silk worms.

230th—No date—Report on the Indians; extracts from Governor de Vaudreuille's correspondence, announcing a treaty of peace with the Chactas, a nation counting 4000 warriors, and occupying an extent of country exceeding 40 leagues. This document must have been written about the close of 1739.

231st.—1761, 6th March—Extract of a letter from Mr. de Kerlerec to the Marquis d'Ossun, complaining of the conduct of the government of Campeachy towards French vessels that had entered that port in distress, whilst on a voyage from New Orleans to Havana, for assistance on behalf of the colony.

232d.—1761, Oct. 3d, St. Ildephonse—Letter from the Marquis d'Ossun informing M. de Kerlerec of instructions given to the government of Mexico, Havana, Pensacola, and of all other Spanish possessions in behalf of all French vessels; speaks of the projects of England to obtain possession of Mexico, and of the necessity of retaining Louisiana as the best means of defeating their plans.

233d—1761, 10th Jan.—Letter from M. de Kerlerec to the Marquis d'Ossun complaining of the silence of his court; proposes to use cyphers for their correspondence.

234th—1761, 31st Oct. Escorial—Memorial from the French ambassador respecting the impossibility to supply Louisiana with the assistance needed, all French vessels being captured by the English; points out the common interest of Spain and France in retaining Louisiana; suggests a dépôt in Havana, Campeachy, and other neighboring ports, of provisions, fire-arms, and munitions of war, to be within reach of New Orleans whenever required. All such provisions and other articles required, to be paid for by the French government.

235th—1763, 9th July—Decree by the "Conseil Supérieur de la Louisiane," forbidding the introduction of slaves from St. Domingo, poisoning being common in that island among the negroes.

236th—1752, 12th Sept.—Letter from M. Michel, "Ordonnateur,"

to the minister complaining of the want of proper officers for the "Conseil Supérieur," and begging the government to supply the colony with two young engineers, and one surveyor.

237th—1752, Feb.—Letter from M. de Vaudreuille to the minister advising the capture by a Spanish "Garde Cote," of the French vessel "l'Etoile," and demanding her restitution.

238th—1754, 4th July—Letter from M. de Kerlerec and d'Auberville, announcing the arrival of families from Lorraine, sent by government; speaks favorably of those families whom they advise having placed in the parish "des Allemands."

239th—1754, 9th July—M. d'Auberville to the minister with the budget of the colony for 1754, and a list of all officers employed.

240th—1754, 21st Sept.—Messrs. de Kerlerec and d'Auberville to the minister, requesting the government to send two miners to work the mines discovered in Illinois—lead and copper.

241st—1652, 22d Sept.—M. Michel to the minister with full reports on the condition of the country; gives interesting details on the culture of cotton: the difficulties to separate the seed from the wool; of a gin invented by M. Debreuil; the culture of tobacco, rice, indigo, and the commerce of peltries; the advantages that might be obtained by irrigation of the land in dry seasons, and the renovation of the fields by introducing the water of the Mississippi on old lands, &c. &c.

242d—1753, 9th March—M. d'Auberville to the minister, showing the necessity of rebuilding the government house; announcing the death of M. Michel, and the situation of the treasury on that day.

243d—1735, 31st Aug.—Messrs. Bienville and Salmon, improvement in the management of the militia hospital since placed under the care of the Ursulines complains of medicines furnished by government.

244th—1731, 10th Jan.—letter from M. Dirou d'Artaguet to the minister, defending himself against charges brought by Governor Perrier; interesting details of his wars with the Indians.

245th—1728, 8th Dec.—M. Dirou to the minister on the situation of the country of Mobile.

246th—1739—Chicachas war; details of the forces sent from France.

247th—1736, 28th June—Messrs. de Bienville and Salmon, interesting details on the Chicachas campaign; the retreat of M. de Bienville with 544 men under his command.

248th—1751, 12th Jan.—M. de Vaudreuille to the minister announcing the termination of the war with the Chactas; begs for the cross of St. Louis for Captain de Grandpré, as a reward for the services rendered by him during the last campaign.

249th—1729, 22d Sept.—Chicachas war; expedition from France, 500 men; detail on the projected campaign.

250th—1731, 5th Dec.—Messrs. Perrier and Salmon, announcing the recording in the minutes of the "Conseil Supérieur," of the letters patent of the king respecting the retrocession by the West India Company of all their privileges in Louisiana; interesting statistical statements and other documents showing the true condition of the colony at that epoch.

251st—1736, 9th June—M. Dirou d'Artaguet, announcing the failure of the expedition of M. de Bienville, at the head of 1500 men, including his allies, against the Chicachas.

252d—1731, 20th April—M. Dirou d'Artaguet, details on the Indian War; calls for aid.

253d—1762, Jan.—Letter from the King of France to M. de Kerlerec in which he states "by the preliminaries of peace agreed upon at Fontainebleau on the 3d November last, having ceded part of the province of Louisiana to the King of England, I have resolved upon ceding the other part to my cousin, the King of Spain." Then follows an order for the delivery to England and Spain of the whole of the province, in accordance with the limits fixed upon in the said preliminaries.

254th—1762—Instructions of the King to M. d'Abbadie regarding the delivery of Louisiana to England and Spain.

255th—1731, 24th June—Dirou d'Artaguet announcing new disorders among the Natchez; the murder of two officers near the Arkansas; destruction of the Tunicas by the Natchez; calls for assistance.

256th—No date—Instructions of the King to M. d'Abbadie regarding the artillery and munitions of war at Mobile. This letter must have been written in 1762.

257th—1721, 13th Sept.—Instructions from the West India Company to the directors and sub-directors in Louisiana, for their guidance in the management of the affairs of the company.

258th—1719, 28th Oct.—Report of M. Hubert on Pensacola; Dauphin Island; Ship Island and l'Ozage; recommends Ship Island as the best harbor for men-of-war.

259th—1721, 31st Sept.—Instructions by the West India Company to the directors and sub-directors in Louisiana, signed in Paris by Demachault and Dedune.

260th—1713, 15th July—Interesting memorial by M. Duclos on Louisiana, including the country of Mobile, addressed to Count Pontchartrain.

261st—1718, 21st June, Paris—Memorial on Louisiana, signed L. A. de Bourbon, le Maréchal d'Estrées, par le conseil, Lachapelle.

This memorial is full of interest. France had then in view the possession of the whole of North America; to attain such an end Louisiana was considered as the basis of the whole plan, and a colonization upon

a large scale was recommended. A naval depot was suggested on Ship Island; a general plan of fortifications was proposed, from Pensacola to the Baie St. Bernard. The English plan of colonization was strongly recommended, to wit: 500 to 600 families at a time, provided by government with all the necessary utensils, cattle, etc. etc., and provisions for one year. The whole to be returned by the parties when in a situation to do so; none but good peasants to be sent; the plan comprehending the Wabash, the Illinois, the Yazoo, the Missouri and Natchitoches; the working of the mines of Missouri proposed; the memorial is thus concluded:—

“A large commerce can be carried on between Mexico and Missouri. Missouri has another branch nearly as important; its source is said to be from the same mountain, it is believed that this branch empties itself in the Western Sea. The Canadians invited to those parts would soon create establishments for a commerce with Japan and China.”*

* Documents 331 and 341 in this index show that the recommendations contained in the memorial of De Bourbon and Maréchal D'Estreés did not remain unheeded. A short insight into these documents, which in the index are only briefly noticed, cannot fail to be of interest in the present juncture of our national affairs.

No 331 is a Report of an exploration, undertaken in 1719 by Bernard de la Harpe, by order of Governor Bienville, of the country lying between the Mississippi and the head waters of the Arkansas rivers. He was bearer of an order from the King of France, dated 16th Nov. 1718, whereby it appears that France at that epoch claimed, under the discovery of La Salle, the whole of the province named Lastekas by the Spaniards, and by them considered as part of New Mexico. De la Harpe was instructed to oppose such pretensions by force if necessary, first representing that Don Antonio de Miroir, who had discovered in 1683 the Northern Provinces, had never entered the country east of the Rio Bravo, whilst France, on the contrary, had entered into treaties with the Indians of those regions at the very commencement of La Salle's discoveries. The journey of De la Harpe was through the Red River country by land to the Arkansas River, which he followed to latitude 37 deg. 45 min., where then stood a large village called Imaham. He was there received by the mentos composed of the following nations: the Tanacaras, Toayas, Cannouches, Adecos, Onsitás, Ascanis, Quntalons, Quirasquiris, and Onechas; they were at war with the Canecey, and Padoucas, and some of the Panis villages; the Aricaras of Missouri were known to them. Bernard De La Harpe, after giving an account of his journey, comes to the conclusion that Charlevoix is in error as to the Western Sea (*Mer. de l'Ouest*), and that it can only be reached through the interior of the lands.

No. 341 is the history of the second exploration by De la Harpe, undertaken by order of Governor Bienville in Dec. 1721. His instructions were to ascend the Mississippi to the mouth of the Arkansas, and then to go up the river as far as it could be navigated, and to explore the country bordering it; want of provisions, however, compelled him to return, after having ascended only 115 leagues (345

262d—No date—Report from la Rochelle, announcing the departure of the frigates la Victoire et la Duchesse de Noailles, with 570 men for Louisiana.

miles). In 1719 he had struck that river at 280 leagues (840 miles) from its mouth.

Bernard De La Harpe closes the *history of his discoveries* with the following remarks on the best route to be followed to reach the Western Sea (Mer de l'Ouest).

"Ice, and long winters and short summers render such a journey through the northern part of Canada next to impossible.

The most practicable route would be to ascend the Mississippi to its source, in latitude of about 48 degrees, then to strike through the country of the Scioux Indians to Lake Brochet, which, according to the report of the Indians, is not far distant from a large river which runs westwardly, and falls no doubt in some bay of the Western Sea (Mer de l'Ouest) to the northward of California. The only difficulty at present, 1722, is the war between the Scioux and Renards and us.

Another route might be taken through the Missouri, which can be ascended in large boats beyond the village of that name in latitude 40 deg. 30 sec., but from that village to the Western Sea there would still be about 550 leagues (1650 miles).

Such a journey could be accomplished through the Arkansas. This river can be navigated 280 leagues (840 miles). There, in the villages discovered in 1719, guides, hunters, horses, and provisions would be found to pursue the discovery. The distance from that point to the Western Sea cannot be more than 450 leagues (1350 miles; still, the navigation of the Missouri extending further West, it would be the most agreeable route. For such an expedition 40 Canadians and 60 soldiers would be required, and the cost would not exceed 20,000 livres; whilst if we have the good fortune of finding a good port in the northern part of California, an extensive trade might soon grow out of such direct communication with Japan, the coast of China, and Mexico, and Peru; and the Spaniards need not be feared as they have no establishments beyond the parallels of 36 deg. and 38 deg.

At the above epoch the Canadians were the great pioneers of the vast West, and nothing could be undertaken without them. They generally assumed *soubriquets*, such as Latulipe, Lajeunesse, L'Esperance, &c. &c. One century and a quarter has since elapsed, and we still see the same hardy race leading the exploring parties, and pointing out in their own *patois*, on either side of the great south pass of the Rocky Mountains, the great landmarks of their ancestors. Among the companions of Captain Fremont, in his exploring expedition of 1842 and 1843, we again find the Latulipe, the Lajeunesse, the L'Esperance, &c., of 1722, with the same stout hearts and undaunted intrepidity.

It is worthy of remark, that two of the routes indicated by De La Harpe, were followed by Capt. Fremont, to wit:—the Missouri and its tributaries; the Arkansas and its forks. The lake mentioned by De La Harpe, is evidently the Mountain Lake at the south pass, which was represented by the Scioux Indians as being at a short distance from a great river running westwardly. La Harpe, in his exploring voyage in 1719, struck the Arkansas in latitude $37^{\circ} 45'$; and Capt. Fremont, in his expedition in 1843, made it in latitude $38^{\circ} 15' 23''$. That the French have been the earliest pioneers through both valleys of the Rocky Mountains, is evidenced by the whole narrative of Capt. Fremont's expedition. Alluding to the word

263d—1718, 21st July—Incomplete memoranda concerning M. de St. Denis' journey through the Red River to Mexico.

264th—1713—M. Crozat informs the government of the efforts of the British to seduce the Indians on the upper Mississippi and in the Natchez country; applies for two officers and forty men for Illinois.

265th—1716, 7th Sept.—Incomplete memoranda on certain changes proposed for Dauphin Island, and the fort St. Louis of Mobile; instruc-

"butte," the Capt. thus expresses himself:—"the French word butte, which so often occurs in this narrative, is retained from the familiar language, and identifies the objects to which it refers; it is naturalized in the regions of the Rocky Mountains." (Fremont's Narrative, p. 161.) On the route to the Pacific, in the same Narrative, are found the following land-marks and names of rivers, etc.:—Rivière aux Cajoux, Vallée de la rivière Boisée, Rivière aux Bouleaux, Rivière Brulée, L'arbre Seul Grand Rond, Great nez percé, etc., etc., which shows that the explorations of the French must have extended much beyond the Rocky Mountains in the early days of the colony of Louisiana, although no records have been published of the same; and this can be accounted for:—before such discoveries could be made useful to France, she had ceased to have any interest in Louisiana. By the treaty of peace of 1763, "the confines of the British and French territories on the continent of North America, were fixed by a line drawn along the middle of the river Mississippi, from its source to the river Iberville, and thence by a line drawn across the river and the lakes Maurepas and Pontchartrain to the sea; and the King of France cedes the river and port of Mobile, and everything he possesses on the left side of the river Mississippi, except the town of New Orleans, and the island, whereon it is situated, which remains to France; provided, the river Mississippi shall be free to the subjects of Great Britain and France in its breadth and length, from its source to the sea." (Postlethwayt's Map and Universal Dictionary of Commerce and Trade. London edition, 1774.)

"The line that parts French Canada from British Canada, was settled by the Commissaries after the peace of Utrecht, making a curve from Davis's Inlet, in the Atlantic Sea, down to the 49° through the Lake Abitibis, to the north-west ocean." (Ibid, article Map.)

Thus after the peace of 1763, France remained in possession of the island of New Orleans, on the left bank of the Mississippi, and of the whole of the right bank from the source of the Mississippi to its mouth, and as far westwardly as her discoveries extended. But very soon afterwards she lost all footing on this continent by her cession to Spain of the whole of the above country; and no wonder that after the loss of such an empire, she should have suffered the records of her discoveries to have mouldered away, unknown to the world. Under the humiliation of that, to France, fatal epoch, all papers connected with the Canadas and Louisiana, really appear to have been indiscriminately thrown into a corner, as if those countries had been swept from the face of the earth, and in that condition, such as yet remain, are still to be found in the archives of the *Département de la Marine et des Colonies*. No doubt that if proper researches were to be instituted, not only in the above department, but also in the public libraries and other archives of France, documents would be found which might throw valuable light on the early history of the Rocky Mountains, of their valleys, of the Mississippi, and of the Pacific, and of their exploration by the French Canadians. E. J. F.

tions to be given to the military posts in Louisiana, and particularly to that of Alibamons.

266th—1714, 27th Dec.—Military establishments (posts) in Louisiana ordered by the King in a letter under this date.

267th—1716, 21st July—Memorandum on the morus tobacco, and a leaf named appalachine, considered a specific for the gout and for the stone, and other diseases, by the Indians of Appalache. These memoranda are by M. Lamothe, who strongly recommends the introduction of silk worms.

268th—1716—Instructions to M. de Lamothe respecting the works on Dauphin Island, etc. etc.

269th—1716, 21st Feb.—M. de Lamothe on the discovery of certain mines.

270th—1718, March 1st—Inventory of the public stores, etc. etc., in the King's warehouses on Dauphin Island and in Mobile.

271st—1721, 2d Sept.—Appointment by the King of the Chevalier Le Blond de la Tour, as Lieutenant General of the province of Louisiana.

272d—Petition of the West India Company to the King, praying that by letters patent of the 15th January, 1724, M. Delachaise having been made a member of the supreme council, although deputed by the King with extraordinary powers to investigate the affairs of the company in Louisiana, by decree of his Majesty's council of 8th December, 1722, that the said Delachaise be permitted to act as honorary counsellor in the Conseil de Régie Générale, and in that capacity to serve the company in the furtherance of the welfare of the colony. This petition is signed by the directors of the West India Company in Paris.

273d—1723, 24th April—Letter from M. de Bienville, dated 20th June, 1722, announcing the order of the Viceroy of Mexico for the cession of Pensacola to Spain. This letter is accompanied by the order of the King of France.

274th—1724, 26th Oct.—Prices fixed for merchandise tendered by the inhabitants in payment of debts to the West India Company.

275th—1721—Documents relative to the beaver trade in Canada; petition against the monopoly of that trade.

276th—1725—Sundry letters relative to the war with the Renards.

HUMBUGIANA.

ARISTOTLE, one of the greatest intelligences that ever appeared in the world, asserted that *incredulity* is the foundation of all wisdom. Had the good old gentleman, whose philosophy maintained such an unlimited sway over the human mind for centuries, lived in the age in which we live, there is little doubt but his opinion would undergo a change, and he might probably declare it to be more in accordance with the experience and temper of mankind to say, that *credulity* is the foundation of all folly. To investigate the gradual development of rational belief would be, to the philosophic mind, a useful and an interesting employment, and the investigation would disclose to us much of the duplicity, deception, fanaticism, and bigotry of our species. We would find error borrowing something of truth, in order to make her pass off more readily; we would discover the subtlety of grand deceivers, and impostors, grafting their greatest errors on some well known palpable truth, and we might learn from the investigation, that all men entertain and are influenced by opinions to a much greater extent than persons unacquainted with self-examination are aware, and we might perceive the necessity of rigidly examining every opinion or sentiment before it is adopted as a principle from which any conclusion is to be drawn.

We all know how prone the mind is to believe that for which it most anxiously wishes. As Prince Henry, believing his father dead, took the crown from his pillow, the king in reproach said to him,—

“Thy wish was, Harry, father to that thought.”

Our judgments are often perverted by our affections and passions. Of whatever nature the passion may be, it prevents us from seeing clearly the object by which it is excited. If we love, we cannot see the faults, and if we hate we cannot see the beauties of the object contemplated. If we hope or earnestly desire a thing, we easily believe that it will be enjoyed; but, if we fear, we magnify difficulties that are real, and actively employ our imagination in conjuring up such as are chimerical. But it is not the object in this article to trace the causes which might be assigned for the constant disposition of mankind towards credulity. They are many and contradictory. The object is to turn the attention to the fact that, in this enlightened age—this nineteenth century—men too readily believe without evidence or examination, and are almost as easily gulled as were our ancestors in the days of Joanna Southcott. If anything peculiarly marks the present age, it is the prevalence of imposture, and the very great readiness with which men and women, and sensible ones too, allow themselves to be beguiled by the assumptions of ignorance, and the tricks of quackery. There is scarcely a

single province of human speculation or action which the disciple of charlatanism does not occupy, in which the meretricious is not put for that which is genuine, and in which falsehood does not ape the garb, the language, and the actions of truth. To point out and expose completely every deception that exists is almost impossible. It would be a task not easily executed. Number the leaves of the forest—count the grains of sand on the desert if you can; and then attempt to number the impositions that have been practised upon the credulous and the simple in every age.

Let us attempt, however, to sketch a few of the more prominent *humbugs*, as they are elegantly termed; and in doing so we will confine ourselves to the following, and illustrate each in its order:

Humbugiana I.—IN MEDICINE.

“ II.—IN EDUCATION.

“ III.—IN LITERATURE.

“ IV.—IN SCIENCE.

“ V.—IN POLITICS.

“ VI.—IN PHILANTHROPY.

“ VII.—IN LAW.

“ VIII.—IN RELIGION.

In imitation of a good old-fashioned plan, before entering on the examination of the above-mentioned, we will inquire into the etymology of the word. The word *Humbug* is not to be found in our common dictionaries, and like the word *hoax*, and a few others that have crept into daily use, their meanings are well understood without the aid of a lexicographer.

The word in question comes from a celebrated professor of the healing art, a German of the name of Hombog, who made a considerable figure some years ago in diffusing his manifestoes through the medium of the newspapers. In order to show the estimation in which Doctor Hombog was held, a few of the shortest of the certificates addressed to the illustrious perfecter of his system may be given. They are as follows, and the cures are really remarkable:—

DEAR DOCTOR,

I was stone blind for sixteen years, and tried every medicine in vain, until I purchased a bottle of your invaluable mixture, and by merely looking at it was restored to sight immediately.

Your grateful friend,

JAMES STOW.

MY DEAR VON HOMBOG,

Some ten years since I was so unfortunate as to catch the *mania a potú*, along with another dreadful disease. I was sent to the hospital

but received no benefit from the prescriptions of the doctors, and was sent home. My wife heard of your invaluable medicine, and by her shouting six times in my ears "*Von Hombog's Mixture*," I was cured,
Yours ever,

J. DEWBERRY.

DEAR DOCTOR,

For twenty years I was deaf as a door-post. Nothing gave me relief. Bought a bottle of your medicine. Smelt the cork, and was as sound as a trout.

FREDERICK STRETCHER.

DEAREST DOCTOR,

I was blown up by the explosion of a powder mill, a short time ago, when happening to remember that I had some of your mixture about the house, I took but one drink and came down light as a feather.

JAMES AIRY.

These are but a few of the seven hundred and ninety-one thousand certificates which, in the month of March, 1837, had already been filed, yet they will give some faint idea of the universal usefulness of the mixture for all diseases which afflict the human family. We make no remarks upon the certificates, the style is good, and if true that the mixture did so much, there is no doubt but the sales would be large.

I. And first of our subject in relation to MEDICINE. Medicine is, or ought to be, a science.

For the Medical profession we have the highest possible respect. No class of men are more important benefactors of mankind. No where have been found more illustrious instances of knowledge, talent, devotedness, and philanthropy. Not the less however has that honorable profession been infested by quackery and humbug. Nor has this been confined to that despicable class of quacks, who, without knowledge or experience, or a single qualification for the healing art, foist their odious drugs upon a credulous public, and live by the miseries and gullibility of mankind. Such thin-skinned monsters of "the ooze and the mire" are impervious to every weapon, and insensible to all shame.

What, then, is a QUACK? A quack is one who sells a pretended nostrum, the preparation of which is kept secret, but the term may be applied to every practitioner who, by pompous pretences, mean insinuations, and indirect promises, endeavors to obtain that confidence which neither success nor experience entitles him to. There is no disease of dreaded name for which the quack cannot furnish a cure. Asthma and consumption, are disarmed of their terrors; gout is now but a harmless bugbear; and if any suffer or die of cancer, it must be the fault of their own obstinacy or incredulity. The diseases of children, with such savans, need give little concern; there are anodynes which allay the pain of teething; there are worm lozenges which no reptile can resist,

and there are cosmetics which infallibly cure and beautify the skin. Laborious investigation of the causes of disease is unnecessary; the quack doctor does not wait to see his patient, who has only to send a letter describing his case, with the *usual fee*, of course, and the remedy will find its way to the most distant corner in the Union. Even this trouble may often be dispensed with; a patient has merely to consider for himself whether his skin or his stomach is in fault, and pills, and cordials, and balsams of unerring efficacy are to be found in every village and town ready to his hand.

Of the truth of these statements there cannot be a doubt, as numberless cases are to be seen every day attested in our newspapers, by those who have tried them, and whose benevolence prompts them to publish, for the benefit of mankind, the advantages they have experienced in themselves or their families. Let us look into this for a moment. These attestations, though honestly given, are given generally in ignorance. A person is afflicted with a certain combination of symptoms in which medical men, or the unskilled, assign a particular name, as fever, dropsy, scurvy: he recovers his health after the use of some particular medicine, and is perfectly convinced the medicine cured him. He rejoices in his success, and confidently recommends the same drug to his friend, who is said to labor under the same disease. But there is here a double fallacy. The first patient cannot be sure that he had the disease he supposes, and he cannot be certain that the remedy cured him. As it is doubtful whether the second patient is afflicted in a similar way, the same medicine may not be applicable to him.

When we consider the endless variety of the human constitution, its delicate and almost evanescent changes in health and disease, it must be obvious that a remedy which will suit one person may be very unfit for another, and that a medicine which to-day is salutary may be attended with disastrous results, if repeated to-morrow. In popular language, and even in the language of physicians, it may be said with truth, that ten persons have the same disease, as small pox, fever, or a cold; but it will require correct and accurate observation to discriminate the differences of each, and to apply the remedies which are proper to them. But by the same patent medicine, and in the same dose, 80,000 cases are said to be cured in a year; and patients indiscriminately are invited to apply a composition in a case which they call a disease of some particular name, though a skillful physician would consider a totally opposite remedy as necessary.

Besides, there is something in the moral aspect of a secret remedy that ought to put mankind on their guard against it. The possession of health is to all so valuable, pain and suffering are so dreadful, that it is the duty of every one to communicate every assistance in his power

to relieve it. With all the industry and accumulated knowledge of ages, there are too many diseases which baffle all the skill of the profession, and there must be something suspicious about those who, affirming themselves to be in possession of a remedy for cancer or consumption, conceal the knowledge of it to their own bosoms. It may be asserted then with perfect safety, that credulity with respect to quack medicines, is not free from danger. We know that there are some patent medicines which are harmless and insignificant, and their only effect is to amuse the patient with delusive hopes, and to trifle away the time during which the constitution could bear the employment of active remedies. To acquire a competent knowledge of the structure of the human frame, to become acquainted with the diseases to which it is liable, and the remedies for these diseases, require study and talent; and it is matter of regret that the course of education requisite to obtain a license to experiment on the bodies of our fellow-creatures, is so circumscribed. We hope the time has come when it will be decreed that the course of education necessary for the medical profession will be more liberal and enlarged; and since it is considered one of the learned professions, *let its professors therefore be learned.*

In our next we shall resume the subject in its relation to education.

MERCANTILE AND AGRICULTURAL MISCELLANIES.

CHARLESTON CHAMBER OF COMMERCE.

Officers.

KER BOYCE, President.

GEO. A. TRENHOLM, 2d Vice President.

CHAS. EDMONDSTON, 1st Vice President.

W. B. HERIOT, Secretary and Treasurer.

Committee of Appeals.

B. J. HOWLAND,

E. P. STARR,

J. C. LEVY,

JAMES ADGER,

W. PATTON,

C. T. LOWNDES.

TARIFF OF COMMISSIONS AND CHARGES.

Commissions—Maximum Rates.

	Per Cent.
On the purchase and shipment of Produce on foreign account.....	2½
On drawing Bills for the same.....	2½
On the purchase and shipment of Produce on domestic account.....	2½
On drawing Bills for the same.....	1
On the purchase and shipment of Produce, either on foreign or domestic account, with funds in hand.....	2½
On Sales of foreign consignments.....	5
On Guarantee of the same.....	2½
On Sales of domestic consignments.....	5
On Guarantee of the same.....	2½
On remitting the proceeds of Sales in Produce.....	2½
“ “ “ in Bills, with guarantee.....	2½
“ “ “ in Bills, without guarantee.....	1
On procuring Freights.....	5
On Collecting “.....	2½
On Ship's Disbursements, with funds in hand.....	2½
“ “ drawing Bills.....	5
For Endorsing Bills of Exchange, (domestic).....	2½
“ “ “ (foreign).....	2½
On goods consigned to, or lodged with merchants for sale, and afterwards ordered to be re-shipped or delivered up, on the amount of invoice.....	2½
For Forwarding goods, 25 cents per package.	
On effecting Insurance, on amount insured.....	½
On recovering Losses, if litigated.....	5
“ “ without litigation, if under acceptance.....	2½
On Recovering Losses, without litigation, if not under acceptance.....	1
On Collecting money by power of attorney, if litigated.....	5
“ “ “ without litigation.....	2½
On Cargoes of vessels in distress, where the goods are bonded, lodged in the Custom House, or stored and afterwards re-shipped, on amount of invoice, (except on jewelry and specie,).....	2½
On Jewelry and Specie.....	½

	Per Cent.
On Collecting Bills of Exchange,.....	$\frac{1}{2}$
On Remitting for the same in Bills, without guarantee,.....	$\frac{1}{2}$

Revised, October, 1843.

Shipping Charges.

The Shipping Charges on Cotton are—

Brokerage,.....	12 $\frac{1}{2}$ cents per bale
Marking,.....	2 “ “
Mending,.....	4 “ “
Mending, furnishing Bagging and Twine,.....	10 “ “
Drayage,.....	6 $\frac{1}{4}$ “ “
Wharfage,.....	4 “ “

The Shipping Charges on Rice, are—

Brokerage, whole casks,.....	12 $\frac{1}{2}$ cents each.
“ half casks,.....	6 $\frac{1}{4}$ “ “
Marking casks, half casks, and bags,.....	2 “ “
Drayage, whole casks,.....	6 $\frac{1}{4}$ @ 12 $\frac{1}{2}$ “ “
“ half casks,.....	4 $\frac{1}{4}$ @ 8 $\frac{1}{2}$ “ “
“ bags,.....	1 $\frac{1}{4}$ @ 2 $\frac{1}{2}$ “ “
Cooperage, casks and half casks,.....	14 “ “
“ “ filling up and extra hooping,.....	20 “ “
Starting into half casks,.....	1 00 per cask.
“ “ bags, and sewing,.....	1 00 “ “
Wharfage, whole and half casks,.....	4 cents each.
“ bags,.....	1 “ “

And storage, while awaiting shipment, of 8 cents per week on bales, and whole and half casks, for the first and last weeks, and 4 cents for the intermediate weeks.

On all other goods, the charges actually paid in each particular case.

Adopted, October, 1843.

Standard of Freights.

When vessels are freighted by the ton, and no special agreement is made respecting the proportion of tonnage, the following standard shall regulate, viz:— that the articles, the bulk of which shall compose a ton, to equal a ton of heavy materials, shall be in weight as follows:—

- Coffee, in casks, 1568 lbs. net; in bags, 1830 lbs. net.
- Cocoa, in casks, 1120 lbs. net; in bags, 1307 lbs. net.
- Pimento, in casks, 952 lbs. net; in bags, 1100 lbs. net.
- All heavy goods, as bar, pig and rod iron, 2240 lbs. net.
- All heavy Dye Woods, Rice, Sugar, and all other heavy goods, 2240 lbs. net.
- Flour, of 1 $\frac{1}{4}$ cwt., 8 barrels.
- Beef, Pork, Fish, (pickled,) Tallow, 6 barrels.
- Pitch, Tar, and Turpentine, of the capacity of 32 gallons each, 6 barrels.
- Oil, Wine, Brandy, and other liquors, reckoning the full contents of casks, 200 gallons.
- Grain, in casks, 22 bushels.
- Salt, in casks, fine 36, coarse 31 bushels.
- Sea Coal, 29 bushels.
- Mahogany, square Timber, Plank, Boards, Bale Goods and Dry Goods, in casks, boxes and trunks, 40 cubic feet.

Dried Hides, 1120 lbs. net.
 Raw Silk, 896 lbs. net.
 Tobacco, ton 1600 lbs. net.
 Tobacco, in hhds., 1200 lbs. net.
Adopted, March, 1823.

Measurement of Goods.

Goods of Measurement on freight from other ports, delivered here, if deemed incorrectly measured, may be re-measured here by the Port Wardens, or other proper persons agreed on for that purpose, whose measurement shall be final and conclusive, and the charge incurred by measuring shall be paid by him who is found in error.

Adopted, March, 1823.

Losses on Goods by Fire, etc., and by Bad Debts.

Loss of goods arising from fire, robbery, theft, or accident, shall in all cases be borne by the owner thereof; unless a breach of orders to insure has been made, or negligence and inattention practised by the Consignee or his agents.

Losses by bad debts in the sale of goods, shall always be borne by the owners, unless sold contrary to written orders, or there be an express agreement to guaranty.

Adopted, March, 1823.

Goods Sold by Weight and by the Thousand.

Goods sold by the weight, to be sold by the 100 lbs., instead of 112 lbs.; or by the ton of 2,000 lbs., instead of 2,240 lbs.—*Adopted, March, 1825,*

Staves, Hoops, etc., by the short thousand.—*Adopted, May, 1839.*

Custom as to the Staple Productions of the State.

RICE.—The standard weight of a barrel is 600 lbs. net. When a Wharfinger weighs a barrel, the turn of the scale is allowed, and a draft of 4 lbs. per barrel. The tare is ascertained by weighing three barrels of a small parcel, and five of a large parcel, if required. The purchaser pays 50 cents for each barrel, and for any re-cooperage after having been once coopered, unless a special agreement is made to the contrary.

COTTON.—In bags and square bales, turn of the scale and one per cent. draft, but no tare for all necessary baling and roping, except for wooden hoops, the actual tare of which is allowed.—*Adopted, March, 1825.*

What shall be a Delivery of Goods by the Master of a Vessel.

In the absence of any express law on the subject, the Chamber recommends that the following regulations be adopted by all interested.

That a notification in all the daily newspapers of the City, or other proper notice be given by Consignees or Agents of Vessels, at what time a vessel will be ready to discharge, and at what Wharf; stating, also, that if goods shall be landed, and not taken in charge by the Consignee or his Agent, the Master or Agent of the Vessel shall, at sunset, put such goods into the charge and possession of the Wharfinger, who shall then store the same, at the expense and at the risk of the respective owners or claimants; and such delivery shall be sufficient to discharge the Master from all future responsibility, and entitle him to his freight money.

That in order more effectually to prevent disputes in regard to the proper delivery of goods from along-side the discharging vessel, it be recommended to Ship's Agents

to have, respectively, a Clerk to deliver the goods, and to record the same in a book to be kept for that purpose. When goods are to be delivered to a drayman, an order shall be written by the Consignee for such delivery, in which shall be inserted the name of the drayman and the number of his license.

Adopted 8th February, 1839.

Drafts and Tares to be allowed to the Purchasers of Imported Articles for internal consumption.

Sugars, in hhds., $\frac{1}{2}$ per cent. draft, and 12 per cent. tare.

Sugars, in boxes, $\frac{1}{2}$ per cent. draft, and 15 per cent. tare.

Sugars, in flour barrels, $\frac{1}{2}$ per cent. draft, and 20 lbs. each tare.

Sugars, in flour barrels, $\frac{1}{2}$ per cent. draft, and (if filled in Charleston) 18 lbs. each tare.

Sugars, in bags of grass $\frac{1}{2}$ per cent. draft, and 2 per cent. tare.

Sugars, in mats or bales, $\frac{1}{2}$ per cent. draft, and 2 per cent. tare.

Coffee, in hhds., $\frac{1}{2}$ per cent. draft, and 12 per cent. tare.

Coffee, in flour barrels, $\frac{1}{2}$ per cent. draft, and 18 lbs. per barrel.

Coffee, in bags of grass, $\frac{1}{2}$ per cent. draft, and 2 per cent. tare.

Coffee, in bags of linen, 2 per cent. tare.

Coffee, in mats or bales, $\frac{1}{2}$ per cent. draft, and 3 per cent. tare.

Cocoa, in casks, Custom House draft and 10 per cent. tare.

Cocoa, in bags of linen, 2 per cent. tare.

Pimento, in bags of linen, 2 per cent. tare.

Pimento, in casks, Custom House draft and 16 per cent. tare.

Pepper, in bags of linen, 2 per cent. tare.

Teas, Custom House draft and tare.

Indigo, of foreign growth, Custom House draft; Tare in Casks, 15 per cent.; in Barrels, 12 per cent.; in Seroons, 10 per cent.; in Bags, 3 per cent.

Cotton, of foreign growth, covered with linen, Custom House draft, 2 per cent. tare.

All other articles, Custom House draft and tare.

Cheese, Candles, Chocolate, Soap, and all small articles sold by weight, the actual tare.

Liquors are gauged by Gunter's scale, agreeably to the act of Congress.

Revised May, 1844.

Custom House Drafts and Tares.

DRAFTS.

The following allowances are made by law for Drafts on articles subject to duty by Weight:

On any quantity of 1 cwt.....	1 pound
On any quantity above 1 cwt. and not exceeding 2 cwt.....	2 "
On any quantity above 2 cwt. and not exceeding 3 cwt.....	3 "
On any quantity above 3 cwt. and not exceeding 10 cwt.....	4 "
On any quantity above 10 cwt. and not exceeding 18 cwt.....	7 "
On any quantity above 18 cwt.....	9 "

[Act of 2d March, 1799, Section 58.]

NOTE.—When the draft established by law exceeds $\frac{1}{2}$ per cent., then the Custom House allows only $\frac{1}{2}$ per cent.

When the Draft established by law is less than $\frac{1}{2}$ per cent., then the Custom House allows only the draft according to the Table.

The principle observed, is always to allow the lowest rate, whether it be ascertained by the percentage or by the table.

TARES ALLOWED BY LAW.

On Sugar in casks, except loaf.....	12 per cent.
On Sugar in boxes.....	15 "
On Sugar in bags or mats.....	5 "
On Cheese in hampers or baskets.....	10 "
On Cheese in boxes.....	20 "
On Candles in boxes.....	8 "
On Chocolate in boxes.....	10 "
On Cotton in bales.....	2 "
On Cotton in ceroon.....	6 "
On Glauber Salts in casks.....	8 "
On Nails in casks.....	8 "
On Sugar Candy in boxes.....	10 "
On Soap in boxes.....	10 "
On Shot in casks.....	3 "
On Twine in casks.....	12 "
On Twine in bales.....	3 "

On all other goods paying a specific duty, according to the Invoice thereof, or actual weight.

On any of the preceding articles the importer may have the invoice tare allowed, if he makes his election at the time of making his entry, and obtains the consent of the Collector and Naval Officer thereto.

[Act of 2d March, 1799, Section 58.]

Presentation of Drafts drawn at Sight.

Resolved, That it has always been the practice of the Merchants of Charleston to pay on presentation, Drafts drawn at sight.

Resolved, That in the opinion of this Chamber, this practice establishes the legal right of the presenter of a Sight Draft, to demand payment on presentation.

Adopted May 27, 1844.

QUERIES TO THE COTTON PLANTERS.

WE have issued a Circular to the planters of the South and West, for information in relation to the Cotton culture, and have sent numerous copies to individuals known to us either by reputation or personally. It is to be hoped that they will respond punctually and fully, as the article we design publishing ought to be as complete as it can possibly be made. The value of such an article all must at once appreciate. Those who receive our journal will aid us in these matters if they would have us elevate its character.

1. Is your Cotton equally fine? what land yields the finest? what the longest staple?
2. The best *manure* to improve the cotton staple? the effect of different kinds?
3. The effect of old and new land upon the fineness or length of staple? size of bolls?
4. Does frost destroy at the same time cotton on old and new land? on which would you plant earliest? how does frost affect cotton on hill and bottom land?

5. The preparation of the ground for cotton? time and mode of breaking up the soil?
6. Time of planting? of commencing to pick? when through?
7. The number of acres you plant to the hand? how many bales you make to the hand?
8. The *kind of cotton seed* preferred?
9. The difference in the product of seed, taken from the bottom, middle, or top of the stalk?
10. Seed taken from the largest bolls, and earliest open? any improvements of this nature you are familiar with?
11. The best means of preserving seed for planting? in confined or open rooms?
12. Is it preferable to plant with seed from the last crop? or with seed a year old?
13. Improvements resulting from a change of seed? how often to be changed, and in what way? from hill to low land, or the reverse? the effect of extreme northern cotton seed brought south, and the reverse?
14. The advantage of rolling cotton-seed before planting? if in any chemical mixture, what?
15. What distance in the drill would you leave your cotton? what width in the rows?
16. Have you found any advantage in rows running east and west, or north and south?
17. Your mode of cultivation? kind of implements preferred?
18. Does rotation of crops improve your crop? the best system of rotation?
19. What your most troublesome grasses? the best cultivation to destroy them?
20. Does the cotton plant require much nursing? how soon thin it out after it is above ground?
21. Does the cotton plant require much rain? at what periods? the kind of season best adapted for it?
22. The average picking to the hand? how do you clear it of trash? the effect of the trashing machine upon the quality of cotton?
23. Is cotton best dried in the sun or shade? state any improvements you are familiar with in the scaffolding of cotton?
24. The most important qualities in a gin stand? how many teeth to the inch? what width between the saws?
25. What description of press do you prefer? its advantages in power or expedition?
26. Have you tested the iron-hoops, and the pressing your bales into shipment size? state the advantage or economy of this over rope?
27. Any other peculiarity or improvement in the culture or preparation of cotton for market with which you are familiar, please state freely.
28. State facts within your memory of the introduction, extension, and cultivation of cotton in your state?
29. What portion of its agriculture confined to cotton?
30. Your best cotton lands were originally how timbered?
31. What the greatest evils the cotton planter has to contend against in making a crop?
32. Your opinion of cotton in the place of hemp bagging? is it economy?
33. What the best average weight for bales?
34. What the cost on each bale of cotton sold in New Orleans? (include in this

calculation the outlay for bagging and rope, or hoop-iron, the freight to market, and the costs of sale in New Orleans?)

35. What the cost a bale when you ship to Europe?

36. Have you tested the advantage of steam-power applied to gins over horse-power? How is the quality of the cotton affected by slow or fast ginning?

WELL-WATER IN THE LOWLANDS OF LOUISIANA.

PROFESSOR RIDDELL, of the United States Branch Mint at New Orleans, made the following experiments and reflections, in relation to the subject before us, a few years ago. The well from which the water examined was drawn was situated at No. 323 Camp street, and ten feet in depth lined with boards.

The result of an experiment on the 22d September, was that, by evaporation, a yield was obtained of one part of solid residue to 1200 of water by weight.

The result of an experiment from the same well, on the 29th December, yielded one part solid to 1094 of water.

"The residue was an olive colored powder of sharp taste—nearly one-fourth appearing to be organic and organized matter, such as the sporules or germs of algal, (plants like frog spittle) microscopic animalcula and their ova."

By chemical analysis, Professor Riddell was enabled to determine the presence of the following "acids and bases, which may be regarded as the mineral impurities of the water:"—Carbonic Acid; Muriatic Acid; Lime; Oxide of Iron; Magnesia; Soda.

"These various ingredients may be supposed to constitute the following saline substances;—Bi-Carbonate of Lime; Bi-Carbonate of Iron; Muriate of Lime; Muriate of Magnesia; Muriate of Soda."

This water was not adapted for washing in consequence of the presence of Iron in the condition of a protoxide combined with carbonic acid—and clothing upon being washed or boiled in it acquired a permanent yellowish hue.

Professor Riddell further remarks that "the use of the water is objectionable, not on account of the mineral impurities, but in consequence of the presence of the organic and organized matters; most of which, it is probable, may be got rid of, by very careful filtering."

"If a bottle of crude water be corked up, the process of putrefaction commences in a few weeks; after which, when uncorked, it exhales a fetid and peculiar odor."

We have long wondered that among the many wealthy planters whose fortunes are staked in the lowlands, there is not an individual in this entire district, who has had the enterprise to try the experiment of *boring* for water after the Artesian plan that has been so successfully tested in Alabama and other parts of the Union.

The belief is induced by the contiguity to highlands of this strip of valley, having for four hundred miles an average width of about thirty, that good water can be procured at a very moderate depth—the hills bounding the lowlands are precipitous, and in height varying from eighty to two hundred feet—those on the left, the *Bluffs of Mississippi* are familiar to all our readers, while the right is bounded throughout its course with the high *Pine Hill Region of the*

Ouachita—being a continuation of the smaller ranges of mountains in the western and southern portions of Arkansas.

This range of hills is composed of immense beds of free stone, and abounds in springs of water equal to any in the world—the reservoirs that feed those springs, we doubt not, having their hundred shoots spreading in all directions, seeking the lowest level, might be tapped by the process suggested—the prospect of success is, we think certain, and we are satisfied that an effort would well repay the enterprise of him who first attempts the experiment in the Lowlands of Louisiana.—*Concordia Intelligencer*.*

AGRICULTURAL SCHOOLS.

THE Hon. Joel R. Poinsett of South Carolina, in a late address, delivered before the Agricultural Society of that State, introduced some reflections upon the importance of correct agricultural knowledge, which we intended to make the basis of an article, but must be content at present only to extract, leaving the subject in full for another occasion. He says—The plain principles of agriculture might be taught in the primary schools, as is practised in some other countries, and the teachers instructed to avail themselves of every fitting occasion to communicate them to the people.

Every farmer in Carolina ought to be made acquainted with the process by which he may multiply the products of the soil, at the same time that he improves its quality and augments its capability to yield its fruits with ever increasing abundance.

He should be taught to what extent the cultivation of culmiferous crops in succession is injurious to land, and what description of vegetation ought to intervene in order to restore its fertility, the necessity of rotations and their most advantageous order; the importance of setting apart a portion of his farm for pasturage, both to support his cattle, and to give a rich dressing of green manure to his land when broken up for tillage; and, above all, he should be urged by demonstrations and arguments addressed to his self-interest not to cultivate more land than he can manure and tend properly. Every man, especially if he can read and cypher, may be made to comprehend how much more advantageous it will be to raise one hundred bushels of corn from five acres than from ten acres. The difference of work and materials between fencing five acres and ten, and that of labor in ploughing, sowing, and harvesting, may be calculated to a fraction. He should be taught to estimate the real value of manures, that he may not be discouraged by their first cost, and to understand when he applies them, that he is placing capital in the ground, the interest of which is represented by the increased commercial value of the product of his fields. A very moderate acquaintance with arithmetic would enable him to ascertain the income arising from such an outlay, but to do this accurately he must be made aware of the

* Mr. Patterson, the Editor of the *Intelligencer*, is dead. We knew him well, and admired him as a good man. His place will not soon be occupied by one so useful to the community, so elevated in his views, so devoted to the advancement of the great practical interests of Louisiana. His whole heart was bent upon these things, until they had become at last with him an enthusiasm, under the influence of which his constitution was impaired and destroyed. Death has closed the scene.

durable benefit of lime and some other mineral manures when applied to soils, deficient in ingredients so essential to their fertility. The fertilizing effects of many substances that are generally thrown away and wasted on a farm, ought to be pointed out to him. How often is the carcass of an animal exposed, to be consumed by birds of prey, and its bones left to bleach in the sun, when the former would enrich the manure heap, and the latter furnish to the soil the most important known fertilizing principle, the phosphate of lime, a material so essential to good husbandry that it is imported into other countries at great cost, and and contributes essentially to the improved condition of their agriculture.

We will venture to say that in no other cultivated country in the world are the carcasses of animals exposed to be devoured by the birds of the air and their bones left to bleach in the sun, or heaps of old leather, woollen rags, feathers, and charcoal dust, left to encumber the earth, when, if properly covered under it, they would enrich and fertilize the soil.

The farmer ought to be informed of the great importance of solid and liquid manures which he now casts away, and which in other countries are sold by the pound after being manufactured into poudrette and urate; and which he could render available by simply mixing them with sulphate of lime and sulphate of iron. He should be instructed when he clears land, how to make the wood which he now destroys and wastes, contribute root, stem, and branch to enrich the soil, by converting them into vegetable manure, ashes and charcoal: and, above all the vast importance of durable improvements should be instilled into his mind.

THE CITY OF NASHVILLE.

THE prospects of the future connection of this city with the Southern Atlantic, by railroad, renders it an object of peculiar interest. We have been endeavoring to procure material for an elaborate history of the place, but thus far without success. We should be obliged if some citizen would favor us with a sketch and also with a notice of the present prospects of the Railroad. At present we shall content ourselves with an extract from one or two papers before us.

The first is from a writer in the Charleston Courier, understood to be Wm. H. Trescott, Esq.

There is not perhaps in the West a more interesting view than that commanded from the summit of the Capitol Hill, in the city of Nashville. Covering the base of the hill, and crowding to the extremest margin of the business-laden Cumberland, is the city itself, its streets alive with the bustle of an active commerce, and its suburbs literally growing under the eye of the spectator. Surrounding the city with a border of beautiful cultivation, lie extensive and valuable farms, intersected by the numerous turnpikes, which centering in the city, radiate to opposite neighborhoods; and girdling in all with a quiet security, rise a range of low and pleasant hills, covered with picturesque woods and graceful dwellings. But it is not so much the beauty of the prospect which attracts the traveler's attention. If he has learned anything of the country through which he has passed, and in the heart of which he stands, he knows that he stands in the midst of an untold abundance—mineral wealth forcing itself through the soil, and that soil ready to meet any demand which agricultural industry may make for produce.

The following is from the Orthopolitan :—

Nashville is situated on the left bank of the Cumberland, on an elevated bluff of limestone. Few towns in the West present a more imposing appearance as the traveler approaches it from every side. The eye is delighted with the number of eminences within the city, some of which are partly covered with the native cedar, clothed in living green, which gives it a cheerful appearance even amidst the dreariness of winter.

Around the city are a number of beautiful eminences, commanding an extensive, rich and varied view of the surrounding country from ten to fifteen miles in every direction; from Capitol Hill, within the city, the eye ranges over a large space, covered with rich farms, and neat country seats, cultivated fields waving with that beautiful specimen of the vegetable world—Indian corn, and that valuable staple—cotton. These, if they do not indicate great opulence, at least bespeak that their occupants are in the enjoyment of competence, which generally produces a greater amount of true happiness than overgrown wealth. The contemplation of such a scene recalls the lines of Moore—

“ ——— If there is peace to be found in the world,
The heart that is humble may look for it here.”

We have amongst us many who are rich, but no *millionaires* who wallow in luxuries, and who look down with aristocratic pride upon those of humbler fortune, and who would, if they could, introduce those distinctions in society that would separate them from the “vulgar herd.” There are but few whose actual fortunes would amount to the tenth of a million; they may have more in possession, but that possession is often accompanied by a slight drawback—sometimes called “suspicion of debt.”

No town in the great valley of the West enjoys in a greater degree the blessing of health. Situated about 36 deg. 30 min. it possesses a temperate climate, and from its local position, it is free from fevers which characterise many of the towns of the West, particularly such as are situated upon water courses, and the lands about them subject to inundations. It is true that a small portion of Nashville, at the upper and lower ends are, in times of high floods, inundated; but these inundations continue but a few days, and sometimes at intervals of several years, and produce no injurious effect upon the health of the town. Although the summer's heat is occasionally oppressive, the winters are mild and moderate. We have not the severe cold of the Northern and Eastern States, nor the relaxing heat of the South. Some idea may be formed of the healthfulness of the city from the following statement of deaths, during the year 1845, which we take from the returns of the sexton of the cemetery, on the books of the corporation, by which it will be seen that the whole number of deaths was 244, in a population of 12,394.

COMPARATIVE PRICES OF NEW ORLEANS SUGAR AND MOLASSES,
AND RIO COFFEE, IN NEW ORLEANS, NEW YORK AND CIN-
CINNATI, FOR EACH WEEK FROM 1ST JAN. TO 1ST NOV., 1845

1845.	SUGAR.			MOLASSES.			COFFEE.			NAVI- GATION
	New Orl'ns	New York.	Cin- cinnati	New Orleans.	New York.	Cin- cinnati.	New Orl'ns	New York.	Cin- cinnati	
Jan. 1	24 @ 5 1/2	3 1/2 @ 5	4 1/2 @ 5 1/2	16 1/2 @ 17 1/2	24 @ 25	23 @ 25	6 @ 6 1/2	6 @ 7	7 @ 7 1/2	good
" 8	24 @ 5 1/2	3 1/2 @ 5	4 1/2 @ 5 1/2	16 1/2 @ 17	20 @ 25	22 1/2 @ 25	6 @ 6 1/2	6 @ 7	6 1/2 @ 7 1/2	"
" 15	24 @ 5 1/2	3 1/2 @ 5	4 @ 5 1/2	15 @ 17	21 @ 22	22 @ 24	6 @ 6 1/2	6 @ 6 1/2	6 1/2 @ 7 1/2	"
" 22	24 @ 5 1/2	3 1/2 @ 4 1/2	4 @ 5 1/2	15 @ 16 1/2	21 @ 22	20 @ 22	5 1/2 @ 6 1/2	6 @ 6 1/2	6 1/2 @ 7 1/2	very good
" 29	24 @ 5 1/2	4 @ 5 1/2	3 1/2 @ 5 1/2	14 1/2 @ 15 1/2	22 @ 23	17 @ 21	5 1/2 @ 6 1/2	6 @ 6 1/2	6 1/2 @ 7 1/2	"
Feb. 5	24 @ 5 1/2	4 @ 5 1/2	4 @ 5 1/2	14 1/2 @ 16	22 @ 23	17 @ 21	5 1/2 @ 6 1/2	6 @ 6 1/2	6 1/2 @ 7 1/2	good
" 12	24 @ 5 1/2	3 1/2 @ 5 1/2	3 1/2 @ 5	17 1/2 @ 18	22 1/2 @ 23 1/2	18 1/2 @ 21	5 1/2 @ 6 1/2	6 @ 6 1/2	6 1/2 @ 7 1/2	"
" 19	24 @ 5 1/2	4 @ 5 1/2	4 @ 5 1/2	17 @ 17 1/2	22 1/2 @ 23 1/2	21 @ 23	5 @ 6 1/2	6 @ 7	6 1/2 @ 7 1/2	"
" 26	24 @ 5 1/2	4 1/2 @ 6	4 @ 5 1/2	18 1/2 @ 19	24 @ 25	21 @ 22	5 @ 6 1/2	6 @ 7	6 @ 7 1/2	very good
Mar. 5	24 @ 5 1/2	4 1/2 @ 6 1/2	4 1/2 @ 5 1/2	20 1/2 @ 21	27 @ 27	23 @ 25	5 1/2 @ 6 1/2	6 @ 7	6 1/2 @ 7 1/2	"
" 12	24 @ 5 1/2	4 1/2 @ 6 1/2	4 1/2 @ 5 1/2	21 @ 22 1/2	28 @ 30	26 @ 28	5 1/2 @ 6 1/2	6 @ 7	6 1/2 @ 7 1/2	"
" 19	24 @ 5 1/2	5 1/2 @ 7	5 1/2 @ 6 1/2	23 1/2 @ 25	29 @ 31	28 @ 30	5 1/2 @ 6 1/2	6 1/2 @ 7	6 1/2 @ 7 1/2	"
" 26	24 @ 5 1/2	5 1/2 @ 7	5 1/2 @ 6 1/2	24 @ 26	31 @ 33	33 @ 35	5 1/2 @ 6 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	"
April 2	25 @ 6 1/2	6 @ 7 1/2	6 @ 7	25 @ 26	35 @ 37 1/2	33 @ 35	5 1/2 @ 6 1/2	6 1/2 @ 8	7 @ 8	"
" 9	25 @ 6 1/2	6 @ 7 1/2	6 1/2 @ 7 1/2	26 @ 26 1/2	34 @ 35	33 @ 35	7 1/2 @ 8 1/2	7 @ 8 1/2	7 1/2 @ 8 1/2	good
" 16	25 @ 6 1/2	5 1/2 @ 7 1/2	6 1/2 @ 7 1/2	30 @ 31 1/2	33 @ 34 1/2	33 @ 35	7 1/2 @ 8 1/2	7 @ 8 1/2	7 1/2 @ 8 1/2	" falling
" 23	25 @ 6 1/2	6 @ 7 1/2	6 @ 7 1/2	27 @ 30	33 @ 34 1/2	34 @ 35	7 1/2 @ 8 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	middling
" 30	25 @ 6 1/2	5 1/2 @ 7 1/2	6 1/2 @ 7 1/2	27 @ 28 1/2	30 @ 32	33 @ 35	7 @ 7 1/2	6 1/2 @ 8	8 @ 8 1/2	"
May 7	25 @ 6 1/2	5 1/2 @ 7 1/2	6 1/2 @ 7 1/2	22 @ 28	29 @ 31	33 @ 35	7 @ 7 1/2	6 1/2 @ 7 1/2	8 @ 8 1/2	"
" 14	24 @ 6 1/2	5 1/2 @ 7 1/2	6 @ 7 1/2	23 @ 29	27 @ 29	33 @ 35	7 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	good
" 21	24 @ 6 1/2	5 1/2 @ 7 1/2	6 @ 7 1/2	18 @ 27	28 @ 30 1/2	33 @ 35	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	"
" 28	24 @ 6 1/2	5 1/2 @ 7 1/2	5 1/2 @ 7	18 @ 27	28 @ 30 1/2	32 @ 33	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	middling
June 4	24 @ 6 1/2	4 1/2 @ 7	5 1/2 @ 7	18 @ 27	27 @ 30 1/2	32 @ 33	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	"
" 11	24 @ 6 1/2	4 1/2 @ 7	5 1/2 @ 7	18 @ 27	29 @ 31	31 @ 33	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	low
" 18	24 @ 6 1/2	4 1/2 @ 7	5 1/2 @ 7	18 @ 26 1/2	27 @ 30 1/2	31 1/2 @ 33	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	"
" 25	24 @ 6 1/2	5 @ 6 1/2	5 1/2 @ 6 1/2	20 @ 27	28 @ 31	31 @ 33	6 1/2 @ 7	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	good
July 2	24 @ 6 1/2	5 @ 7	5 1/2 @ 6 1/2	20 @ 27	28 @ 31	30 @ 33	6 1/2 @ 7	5 1/2 @ 7 1/2	7 1/2 @ 8 1/2	middling
" 9	24 @ 6 1/2	5 @ 7	5 1/2 @ 6 1/2	20 @ 26 1/2	28 @ 30	30 @ 33	6 1/2 @ 7	5 1/2 @ 7 1/2	7 1/2 @ 8 1/2	good
" 16	25 @ 6 1/2	5 @ 7	5 1/2 @ 6 1/2	23 @ 26 1/2	28 @ 31	30 @ 33	6 1/2 @ 7	6 @ 7 1/2	7 @ 8 1/2	"
" 23	25 @ 6 1/2	5 @ 7 1/2	5 1/2 @ 6 1/2	23 @ 26 1/2	28 @ 31	31 @ 33	6 1/2 @ 7	6 @ 7 1/2	7 @ 8	falling
Aug. 6	25 @ 7	5 1/2 @ 7 1/2	5 1/2 @ 7	26 @ 28	28 @ 31	33 @ 34	6 @ 7 1/2	6 1/2 @ 7 1/2	7 @ 8	low
" 13	25 @ 7	5 1/2 @ 7 1/2	5 1/2 @ 7	24 @ 27	28 @ 31	33 @ 34	6 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	"
" 20	25 @ 7	5 1/2 @ 7 1/2	5 1/2 @ 7	24 @ 27	28 @ 31	33 @ 35	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	very low
Sept. 6	25 @ 7 1/2	7 @ 7 1/2	6 1/2 @ 7	24 @ 27	28 @ 31	35 @ 35	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	"
" 13	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7	24 @ 27	28 @ 31	35 @ 35	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	low
" 20	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7	25 @ 26	28 @ 31 1/2	35 @ 35	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	"
" 27	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	25 @ 27	28 @ 31 1/2	37 1/2 @ 37 1/2	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	very low
Oct. 4	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	21 @ 24	26 @ 30	37 1/2 @ 37 1/2	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	low, rising
" 11	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	21 @ 25	26 @ 30	37 1/2 @ 37 1/2	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	low
" 18	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	21 @ 25	23 @ 27	37 1/2 @ 37 1/2	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	" rising
" 25	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	25 @ 30	23 @ 27	37 1/2 @ 38	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	middling
" 31	25 @ 7 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	30 @ 31	23 @ 27	38 @ 38	6 1/2 @ 7 1/2	6 1/2 @ 8 1/2	7 1/2 @ 8 1/2	"
Average.	4 1/2 @ 6 1/2	5 1/2 @ 6 1/2	5 1/2 @ 6 1/2	21 1/2 @ 24 1/2	27 @ 29 1/2	30 1/2 @ 31 1/2	6 1/2 @ 7 1/2	6 1/2 @ 7 1/2	7 1/2 @ 8 1/2	
Mean Average.	5 56 100	6 6 100	6 8 100	23 15 100	28 20 100	31 6 100	6 70 100	7 11 100	7 66 100	

AMERICAN RAILROADS.

	NAMES OF RAILROADS.	Length in Miles.	Cost.	Loans and Debts.	Number of Shares	Paid on Share	1843.—INCOME.		Div. per cent.	1844.—INCOME.		Div. per cent.
							Gross.	Nett.		Gross.	Nett.	
Maine.	1 Portland, Saco and Portsmouth.....	50	1,200,000	.....	.....	.....	89,997	47,166	7	131,404	62,172	6
N. Hamp.	2 Concord.....	35	750,000	.....	.....	.....	.....	.....	.....	.....	.....	12
Mass.	3 Boston and Maine.....	56	1,435,461	.....	.....	.....	178,745	68,499	6	233,101	86,401	6½
.....	4 Boston and Maine extension.....	17½	455,703	unfin.	.....	.....	.....	.....	.....	.....	.....	.....
.....	5 Boston and Lowell.....	26	1,363,746	.....	.....	.....	277,315	144,000	8	316,909	147,615	8
.....	6 Boston and Providence.....	41	1,836,135	none.	13,600	100	233,388	110,823	6	282,701	156,109	6
.....	7 Boston and Worcester.....	44	2,914,078	.....	.....	.....	404,141	162,000	6	428,437	195,163	7½
.....	8 Berkshire.....	21	250,000	not stated	.....	.....	.....	17,500	7	17,737	.....	.....
.....	9 Charlestown branch.....	.....	230,260	.....	.....	.....	.....	.....	13	34,654	13,971	5½
.....	10 Eastern.....	54	2,388,631	.....	.....	.....	279,563	140,595	6	337,238	227,920	8
.....	11 Fitchburg.....	50	1,150,000	just op'd.	.....	.....	.....	.....	.....	42,759	26,835	.....
.....	12 Nashua and Lowell.....	14½	330,000	.....	.....	.....	84,079	.....	8	94,588	34,944	10
.....	13 New Bedford and Taunton.....	20	430,962	.....	.....	.....	50,671	24,000	6	64,998	24,000	6
.....	14 Northampton and Springfield.....	.....	172,883	unfin.	.....	.....	.....	.....	.....	.....	.....	.....
.....	15 Norwich and Worcester.....	66	2,290,000	900,000	16,535	100	162,336	24,871	.....	230,674	99,464	3
.....	16 Old Colony.....	.....	87,820	unfin.	.....	.....	.....	.....	.....	.....	.....	.....
.....	17 Stoughton branch.....	4	63,075	unfin.	.....	.....	.....	.....	.....	.....	.....	.....
.....	18 Taunton branch.....	11	250,000	.....	.....	.....	.....	20,000	8	96,687	20,000	8
.....	19 Vermont and Massachusetts.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	20 West Stockbridge.....	3	41,516	200	.....	100	.....	.....	.....	.....	.....	.....
.....	21 Western, (117 miles in Mass.).....	156	7,636,202	4,636,202	30,000	.....	573,882	284,432	.....	753,753	439,679	3
.....	22 Worcester branch to Milbury.....	3½	42,000	.....	.....	.....	.....	.....	.....	150,000	.....	.....
.....	23 Housatonic, (10 months).....	74	1,244,123	100,000	10,000	100	.....	.....	.....	.....	.....	.....
Conn.	24 Hartford and New Haven.....	38	1,100,000	100,000	10,000	100	.....	.....	.....	.....	.....	6
.....	25 Hartford and Springfield.....	25½	600,000	400,000	2,000	100	.....	.....	.....	.....	.....	.....
.....	26 Stonington, (year ending 1st Sept.).....	43	2,600,000	650,000	13,000	100	113,889	.....	.....	154,724	79,345	.....
N. York.	27 Attica and Buffalo.....	31	336,211	.....	.....	.....	45,896	7,522	.....	73,248	48,033	.....
.....	28 Auburn and Rochester.....	78	1,796,342	200,000	14,000	100	189,693	112,000	.....	237,667	152,007	6
.....	29 Auburn and Syracuse.....	26	766,657	.....	.....	133½	86,291	27,334	.....	96,738	52,544	6

AMERICAN RAILROADS.

NAMES OF RAILROADS.		Length in Miles.	Cost.	Loans and Debts.	Number of Shares.	Paid up on Shares.	1843.—INCOME.		Div. per cent.	1844.—INCOME.		Div. per cent.
							Gross.	Nett.		Gross.	Nett.	
Penn.	59 Pottsville and Danville.....	29½	1,500,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	60 Reading.....	94	9,457,570	7,447,570	40,200	50	.....	.....	.....	597,613	343,511	.....
.....	61 Schuylkill Valley.....	10	1,000,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	62 Williamsport and Elmira.....	25	400,000	.....	.....	.....	20,000	.....	.....	.....	.....	.....
.....	63 Philadelphia and Baltimore.....	93	4,400,000	.....	.....	.....	43,043	200,000	.....	.....	210,000	.....
Delaware	64 Frenchtown.....	16	600,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mary'nd	65 Baltimore and Ohio, (1st Oct.).....	188	7,742,410	1,153,709	.....	.....	575,235	279,402	.....	658,620	346,946	.....
.....	66 Baltimore and Washington.....	38	1,800,000	.....	.....	.....	177,227	71,691	.....	212,129	104,529	.....
.....	67 Baltimore and Susquehanna.....	58	3,000,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	68 Wrightsville, York and Gettysburg.....	12½	500,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
Virginia	69 Greensville and Roanoke.....	18	284,433	37,544	2,000	100	.....	.....	.....	25,368	6,074	3
.....	70 Petersburg.....	63	969,880	63,000	7,690	100	.....	.....	.....	122,871	72,898	6
.....	71 Portsmouth and Roanoke.....	78½	1,454,171	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	72 Richmond, Fredericksburg and Potomac.....	76	800,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	73 Richmond and Petersburg.....	22½	700,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	74 Winchester and Potomac.....	32	500,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
N. Car.	75 Raleigh and Gaston.....	84½	1,360,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	76 Wilmington and Raleigh.....	161	1,800,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
S. Car.	77 South Carolina.....	136	5,671,452	.....	.....	.....	.....	.....	.....	.....	.....	5
.....	78 Columbia.....	66	.....	.....	34,410	75	.....	.....	.....	.....	.....	.....
Georgia.	79 Central.....	190½	2,581,723	400,000	20,510	100	201,464	77,456	.....	532,371	140,196	.....
.....	80 Georgia.....	147½	2,650,000	.....	.....	.....	227,532	93,190	.....	328,425	180,704	.....
.....	81 Montgomery and West Point.....	89	500,000	170,000	.....	100	248,026	158,207	.....	248,096	147,523	.....
Kentu'ky	82 Lexington and Ohio.....	40	450,000	.....	.....	.....	.....	.....	.....	35,000	15,000	.....
Chio.	83 Little Miami.....	40	400,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	84 Mad river.....	40	152,000	.....	.....	.....	.....	.....	.....	.....	.....	.....
Indiana.	85 Madison and Indianapolis.....	56	212,000	50,000	.....	.....	.....	.....	.....	.....	.....	.....
Canada.	86 Champlain and St. Lawrence.....	15	.....	.....	.....	.....	22,110	8,639	8	39,031	10,065	9½
							.....	12,000	.....	58,000	24,000	.....

Rail Road Journal.

THE PUBLISHING BUSINESS.

Democratic Review for April.

Whig Journal for April.

THERE WAS ONCE a time in Germany when no one could aspire to the title of gentleman—could not have the enviable *Herr* appended to his name unless he had written a book. For what we know this unique custom still exists. Be that as it may, however, modern democrats seem to think, and act on the same principle, evidently believing that they must appear on this “Field of Cloth of Gold,” before they can have claims to gentility, and if they do not always bore us with volumes, they do incessantly annoy us with tame and insipid articles in *Magazines*. Originality of thought or terseness of composition does not enter into the refined conception of these periodical cobweb-spinners. Respecting the first they agree with La Bruyere—

Le choix des pensées est invention,

and with the latter they are entirely unacquainted. True, we must admit “the healthy excitement of composition,” but an undue exercise of a weak organ is not apt much to benefit it, to say nothing of the organs of those whose unhappiness it is to be sympathetic therewith. We also allow that the amusement of boring the public with “linked sweetness long drawn out” is refreshing and predisposes to much inward joy:—just as one “whose virtues formed the magic of his song” has sung—

“There is a pleasure in poetic pains,
Which only poets know.” etc.

And it is equally authentic that which another of the chosen few has sung—

“None but an author feels an author’s cares,
Or Fancy’s fondness for the child she bears,”

but still we deprecate this swarm of literary locusts which visit us in the present era of literature, and plague-like consumers of time, the means whereby we live. Writing has been so much reduced to a trade that Genius shrinks from the competition. Books are written on wagers, and *feuilletons* engaged with Dumas, alone sufficient to occupy all the leisure of a “man about town” for a period longer than his coat will wear. This is the age of pertinacity, mendacity, and superficiality. Goldsmith, who thought twenty lines a good day’s work, would be laughed at in this age of telegraphic rhyme—and the work of years with Adam Smith might be reduced to days under the ingenious fingers of a modern political economist. To alter a couplet of Byron’s, we may well exclaim—

“A man must serve his time to every trade
Save literature—writers are already made.”

As the Goths and Vandals, who descended upon and sacked Rome, were allured thither by the taste of wine, so are the barbarians in authorship, who rush down upon us with weapons similar to that with which Sampson slew the Philistines, fascinated by the nectar of applause. This latter commodity has been so profusely showered that the veriest poetaster who climbs an ant hill, mistaking it for Parnassus; or the most impudent socialist who dogmatically speaks of Bacon as “the greatest and the meanest of mankind,” (that quotation being about as much as they know of him or his works) have a surfeit of sweet

smelling savors thrown as incense upon their petty scribblings, and cry *Eureka!* in self-astonishment.

We wish not to be thought deprecating *all* periodical literature—far from it. The purest gems in the English language have shone in that form, and well we know that the first essays of genius have sought and still seek in that mode

"To climb the steep
Where Learning's laurels bloom."

We know that they foster talent, and encourage art; that they are the silver streams whereupon the modest man of genius embarks and trims his vessel for the stormy sea of literary enterprise. Therein he learns to cull the exuberance of his soul, fired by the *divinus inflatus*; and is comforted by the assurance that he has only to check his ardor, whilst thousands in the same arena are destitute of it altogether—mere framers of sentences from habit and education, precise as they are unmeaning, and pointed in nothing save commas, semi-colons, and periods. We hope, too, to be understood, and not be considered as writing invidiously of the magazines which head these cursory remarks. We speak generally, and from the great ability exhibited in these reviews we would rather make them exceptions than otherwise to the fungus periodical-literature of the day. Nor do we confine our observations to the United States alone, but extend them to England and the Continent; everywhere is this morbid taste for quantity instead of quality seen and *felt*. But we have reliance upon the good sense of our community, and have no doubt that we shall shortly see the time when this feverish desire for the sentimental, flimsy, and the vulgar will give place to a healthy literary tone having its origin amongst ourselves and pervading the whole American people.

The Old Continental; or, the Price of Liberty. By HON. JAMES K. PAULDING. New York: Paine & Burgess, 1846.

This work will add but little to the literary reputation of its author. Apart from the redundancy which is exhibited throughout, there is a looseness in the style and occasional encroachments upon the refinements of the age; little, perhaps, to be regarded in a tyro, but which can scarcely be tolerated in one who has attained so proud a position in the world of literature.

We are unwilling to be persuaded that our author intended *seriously* to impose upon us the belief that the full measure of time occupied by Horace in preparing his Satires was consumed in the development of the portraiture of the "Old Continental." This may be so. Conceding the point, however, it argues a woful degeneracy from that elevated standard to the erection of which he has so liberally contributed, and by which we must now measure this later effort of his pen.

However deeply we may be imbued with the reverence which attaches to great names, or the charity which inclines us to extenuate the faults that so frequently mar the finest efforts of genius and of art, a feeling of disappointment pervaded our mind during every step we made in the progress of the work.

Without a design to particularise, we would remark that the sketch given us of the fair heroine, is exceedingly common-place; and many of the similes are less refined than we were led to expect from one of Mr. Paulding's literary character.

The design and tendency of the work is to impress upon the minds of those into whose hands it may fall, a higher sense of the liberties which we enjoy, by sketching, with a faithful pencil, the privations and sufferings endured by the patriots of the revolution.

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NEW ORLEANS CHAMBER OF COMMERCE, May 4, 1846.

Be it resolved, That this Chamber highly approves of the **COMMERCIAL REVIEW**, a periodical established in this city by J. D. B. De Bow, Esq., and recommends it to the patronage of the commercial community.

Sir: I prefix copies of a resolution passed unanimously at a meeting of the Chamber of Commerce of this city, last evening, and remain respectfully,
To J. D. B. De Bow.

CHAS. BRIGGS, Sec'y.